

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR LANCASTER COUNTY, NEBRASKA

IN RE AMENDMENT TO THE)
LANCASTER COUNTY, NEBRASKA)
EMPLOYEES RETIREMENT PLAN)

RESOLUTION NO. R-02-05

WHEREAS, the County of Lancaster, Nebraska has adopted a retirement plan for its employees; and

WHEREAS, it is necessary to amend and restate the plan in accordance with the plan documents attached hereto.

NOW THEREFORE BE IT RESOLVED, that the County of Lancaster, Nebraska hereby amends and restates the Lancaster County, Nebraska Employees Retirement Plan set forth in the Nationwide Retirement Solutions, Inc. Model Governmental Defined Contribution Plan And Trust, effective as of January 1, 2002. The plan was originally effective July 21, 1964.

BE IT FURTHER RESOLVED, that all County Commissioners of the County Board of Lancaster County, Nebraska are hereby authorized and directed to perform all acts, sign all documents necessary to put said plan into operation, and to secure the approval of said plan by the Internal Revenue Service so that said plan may qualify under Section 401(a) of the Internal Revenue Code of 1986, as amended;


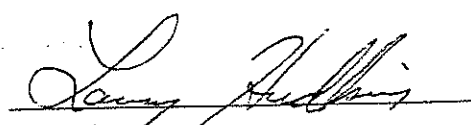
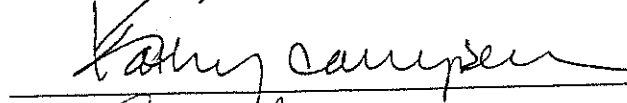
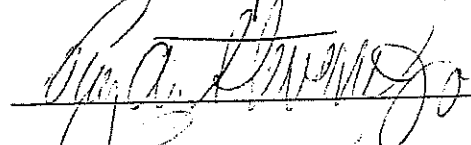
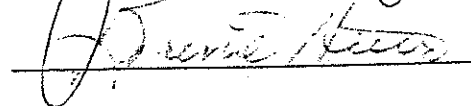
BE IT FURTHER RESOLVED, that the County of Lancaster, Nebraska, is hereby appointed as Trustee and, upon acceptance by executing the Adoption Agreement of said plan, is directed to assume ownership of all trust assets.

APPROVED and EXECUTED by the County of Lancaster, Nebraska, this ____ day of January, 2002.

BY THE BOARD OF COUNTY COMMISSIONERS
OF LANCASTER COUNTY, NEBRASKA

APPROVED AS TO FORM
this 15 day of January, 2002.


Douglas D. Cyr
Deputy County Attorney

AMENDMENT 1
FOR THE LANCASTER COUNTY, NEBRASKA EMPLOYEES RETIREMENT PLAN
ARTICLE I

PREAMBLE

- 1.1 Adoption and effective date of amendment. This amendment of the plan is adopted to reflect certain provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA"). This amendment is intended as good faith compliance with the requirements of EGTRRA and is to be construed in accordance with EGTRRA and guidance issued thereunder. Except as otherwise provided, this amendment shall be effective as of the first day of the first plan year beginning after December 31, 2001.
- 1.2 Supersession of inconsistent provisions. This amendment shall supersede the provisions of the plan to the extent those provisions are inconsistent with the provisions of this amendment.

ARTICLE II
ADOPTION AGREEMENT ELECTIONS

- 2.1 Exclusion of Rollovers in Application of Involuntary Cash-out Provisions. If the plan is not subject to the qualified joint and survivor annuity rules and includes involuntary cash-out provisions, then unless one of the options below is elected, effective for distributions made after December 31, 2001, rollover contributions will be excluded in determining the value of the participant's nonforfeitable account balance for purposes of the plan's involuntary cash-out rules.
- a. ☒ Rollover contributions will not be excluded.
 - b. ☐ Rollover contributions will be excluded only with respect to distributions made after _____ (Enter a date no earlier than December 31, 2001).
 - c. ☐ Rollover contributions will only be excluded with respect to participants who separated from service after _____. (Enter a date. The date may be earlier than December 31, 2001.)

ARTICLE III
INVOLUNTARY CASH-OUTS

- 3.1 Applicability and effective date. If the plan provides for involuntary cash-outs of amounts less than \$5,000, then unless otherwise elected in Section 2.1 of this amendment, this Article shall apply for distributions made after December 31, 2001, and shall apply to all participants.
- 3.2 Rollovers disregarded in determining value of account balance for involuntary distributions. For purposes of the Sections of the plan that provide for the involuntary distribution of vested accrued benefits of \$5,000 or less, the value of a participant's nonforfeitable account balance shall be determined without regard to that portion of the account balance that is attributable to rollover contributions (and earnings allocable thereto) within the meaning of Sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), and 457(e)(16) of the Code. If the value of the participant's nonforfeitable account balance as so determined is \$5,000 or less, then the plan shall immediately distribute the participant's entire nonforfeitable account balance.

ARTICLE IV
INCREASE IN COMPENSATION LIMIT

Increase in Compensation Limit. The annual compensation of each participant taken into account in determining allocations for any plan year beginning after December 31, 2001, shall not exceed \$200,000, as adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Code. Annual compensation means compensation during the plan year or such other consecutive 12-month period over which compensation is otherwise elected in Section 2.5 of this amendment, for purposes of determining benefit accruals in a plan year beginning after December 31, 2001, compensation for any prior determination period shall be limited to \$200,000. The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

ARTICLE V
LIMITATIONS ON CONTRIBUTIONS (IRC SECTION 415 LIMITS)

- 5.1 Effective date. This Section shall be effective for limitation years beginning after December 31, 2001.
- 5.2 Maximum annual addition. Except to the extent permitted under Section 414(v) of the Code, if applicable, the annual addition that may be contributed or allocated to a participant's account under the plan for any limitation year shall not exceed the lesser of:
- a. \$40,000, as adjusted for increases in the cost-of-living under Section 415(d) of the Code, or
 - b. 100 percent of the participant's compensation, within the meaning of Section 415(c)(3) of the Code, for the limitation year.

The compensation limit referred to in b, shall not apply to any contribution for medical benefits after separation from service (within the meaning of Section 401(h) or Section 419A(f)(2) of the Code) which is otherwise treated as an annual addition.

ARTICLE VI
DIRECT ROLLOVERS

- 6.1 Effective date. This Article shall apply to distributions made after December 31, 2001.
- 6.2 Modification of definition of eligible retirement plan. For purposes of the direct rollover provisions of the plan, an eligible retirement plan shall also mean an annuity contract described in Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relation order, as defined in Section 414(p) of the Code.
- 6.3 Modification of definition of eligible rollover distribution to include after-tax employee contributions. For purposes of the direct rollover provisions in the plan, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in Section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in Section 401(a) or 403(b) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

ARTICLE VII
ROLLOVERS FROM OTHER PLANS

Rollovers from other plans. The employer, operationally and on a nondiscriminatory basis, may limit the source of rollover contributions that may be accepted by this plan.

This amendment has been executed this _____ day of _____, _____.

Name of Employer: COUNTY OF LANCASTER

EMPLOYER

ADOPTION AGREEMENT FOR

The Lancaster County, Nebraska Employees Retirement Plan

It shall be effective as of the date specified below. The employer hereby selects the following Plan specifications:

CAUTION: In order for the Plan to qualify under Internal Revenue Code Section 401(a), this Adoption Agreement must be properly filled out.

EMPLOYER INFORMATION

B1 Name of Employer Lancaster County

B2 Address 555 S. 10th City/County Building
Lincoln NE 68508
City State Zip

Telephone 402-441-7447

B3 Employer Identification Number 47-6006482

B4 NAME(S) OF TRUSTEE(S)

a. Kathy Campbell e. Ray Stevens
b. Bob Workman f. _____
c. Bernie Heier g. _____
d. Larry Hudkins h. _____

B5 TRUSTEES' ADDRESS

a. ☒ Use Employer Address

b. ☐ _____
Street _____
City State Zip

B6 LOCATION OF EMPLOYER'S PRINCIPAL OFFICE

Nebraska and this Plan and Trust shall be governed under the laws of the same.

B7 EMPLOYER FISCAL YEAR means the 12 consecutive month period:

Commencing on a. July 1 (e.g., January 1st) and
month day

ending on b. June 30
month day

PLAN INFORMATION

C1 EFFECTIVE DATE

This Adoption Agreement shall:

constitute an amendment and restatement in its entirety of a previously established qualified Plan of the Employer which was effective July 21, 1964 (hereinafter called the "Effective Date"). Except as specifically provided in the Plan, the effective date of this amendment and restatement is January 1, 2001.

C2 PLAN YEAR means the 12 consecutive month period:

Commencing on January 1

and ending on December 31.

C3 ANNIVERSARY DATE of Plan (Annual Valuation Date)

a. January 1
month day

C4 PLAN NUMBER assigned by the Employer (select one)

a. ☒ 001 b. ☐ 002 c. ☐ 003 d. ☐ Other _____

C5 NAME OF PLAN ADMINISTRATOR (Document provides for the Employer to appoint an Administrator. If none is named, the Employer will become the Administrator.)

The Board of County Commissioners of Lancaster

Address ☒ Use Employer Address

City

State

Zip

Telephone 402-441-7447

Administrator's I. D. Number 47-6006482

C6 PLAN'S AGENT FOR SERVICE OF LEGAL PROCESS

a. ☒ Employer (Use Employer Address)

b. ☐ Name

Address

City

State

Zip

ELIGIBILITY, VESTING AND RETIREMENT AGE

D1 ELIGIBLE EMPLOYEES (Plan Section 1.11) shall mean:

a. ☒ all Employees who have satisfied the eligibility requirements

D2 HOURS OF SERVICE (Plan Section 1.21) will be determined on the basis of the method selected below. Only one method may be selected. The method selected will be applied to all Employees covered under the Plan.

a. ☒ On the basis of actual hours for which an Employee is paid or entitled to payment.

b. ☐ On the basis of days worked. An Employee would be credited with ten (10) hours of service if, under the Plan, such employee would be credited with at least one (1) Hour of Service during the day.

c. ☐ On the basis of weeks worked. An Employee will be credited forty-five (45) Hours of Service if under the Plan such Employee would be credited with at least one (1) Hour of Service during

the week.

D3 YEARS OF SERVICE (Plan Section 1.52)

a. For Eligibility: (select one):

☐ Hours Method. A Year of Service shall be credited for a computation period in which an Employee completes at least _____ (insert 1,000 or fewer) Hours of Service.

☒ Elapsed Time Method.

b. For Vesting: (select one):

☒ Hours Method. A Year of Service shall be credited for a computation period in which an Employee completes at least 1,000 (insert 1,000 or fewer) Hours of Service.

☐ Elapsed Time Method.

D4 CONDITIONS OF ELIGIBILITY

Any Eligible Employee will be eligible to participate in the Plan if such Eligible Employee has satisfied the service and age requirements, if any, specified below:

(a) Subject to Section (b), any Eligible Employee who has attained age twenty-one (21) and has been employed by the Employer for at least six (6) consecutive months may elect to become a Participant in the Plan as of the first day of any month following the date such requirements have been met.

(b) Eligible Employees who have attained age twenty-five (25) and have completed one Year of Service shall automatically become Participants in the Plan as of the first day of the month coinciding with or next following the date on which such requirements have been met; provided, however, that an Eligible Employee who is employed by the Employer after attaining age fifty-five (55) may (or may not) elect to become a Participant in the Plan after completing one Year of Service.

(c) The following employees may elect to become Participants in the Plan as of the first day of any month following their date of employment: elected officials, chief deputies, attorneys, physicians, department heads, appointed assistants to department heads, county board administrator, bailiffs, district court referee and deputy sheriffs not covered by a labor agreement. An election to participate in the Plan shall be irrevocable once made.

D5 EFFECTIVE DATE OF PARTICIPATION (Plan Section 3.2)

An Eligible Employee shall become a Participant as of:

- d. ☒ the first day of the month coinciding with or next following the date on which he or she met the requirements.

D6 VESTING OF PARTICIPANT'S INTEREST (Plan Section 6.4(b))

The vesting schedule, based on number of Years of Service, shall be as follows:

An elected official or department head who is a county employee on or after the effective date of this Amendment, shall be 100% vested in his Employer Contributions upon his participation in the Plan. All other Participants will vest in Employer Contributions, based upon aggregate Years of Service, in accordance with the following table:

<u>Years of Service</u>	<u>Vesting Percentage</u>
Fewer than 3	0%
At least 3, but fewer than 4	20%
At least 4, but fewer than 5	40%
At least 5, but fewer than 6	60%
At least 6, but fewer than 7	80%
7 or more	100%

D7 VESTING (Plan Section 6.4(f)) In determining Years of Service for vesting purposes, Years of Service attributable to the following shall be EXCLUDED.

- a. ☐ Service prior to the Effective Date of the Plan or a predecessor plan.
b. ☐ Service prior to the time an Employee attained age 18.
c. ☒ N/A - No Years of Service shall be excluded.

D8 PLAN SHALL RECOGNIZE SERVICE WITH PREDECESSOR EMPLOYER

- a. ☒ No.
b. ☐ Yes: Years of Service with _____ shall be recognized for all purposes of this Plan.

NOTE: If the predecessor Employer maintained this qualified Plan, then Years of Service with such predecessor Employer shall be recognized pursuant to Section 1.51 and b. must be marked.

D9 NORMAL RETIREMENT AGE ("NRA") (Plan Section 1.29) means:

- a. ☒ the date a Participant attains his or her 60th birthday. (not to exceed 65th)
- b. ☐ the later of the date a Participant attains his or her _____ birthday (not to exceed 65th) or the _____ (not to exceed 10th) anniversary of the first day of the Plan Year in which participation in the Plan commenced.

D10 NORMAL RETIREMENT DATE (Plan Section 1.30) shall commence:

- a. ☐ as of the Participant's "NRA."

OR (must select b. or c. AND 1. or 2.)

- b. ☒ as of the first day of the month . . .
- c. ☐ as of the Anniversary Date . . .

1. ☒ coinciding with or next following the Participant's "NRA"
2. ☐ nearest the Participant's "NRA."

D11 EARLY RETIREMENT DATE (Plan Section 1.9) means the:

- a. ☐ No Early Retirement provision provided.
- b. ☐ date on which a Participant . . .
- c. ☒ first day of the month coinciding with or next following the date on which a Participant . . .
- d. ☐ Anniversary Date coinciding with or next following the date on which a Participant . . .

AND, if b, c, or d was selected . . .

- ☒ attains his or her 55th birthday and has
- ☒ completed at least 10 Years of Service.

- e. ☒ A Participant who attains his or her Early Retirement Date shall:

1. ☒ be 100 % vested upon attainment of his or her Early Retirement Date.
2. ☐ be subject to the vesting schedule set forth in Section D6 of the Adoption Agreement.

CONTRIBUTIONS, ALLOCATIONS, AND DISTRIBUTIONS

E1 COMPENSATION (Plan Section 1.7) with respect to any Participant means:

- ☒ Section 3401(a) wages (wages for withholding purposes).

IN ADDITION, COMPENSATION ☒ shall include compensation which is not currently includible in the Participant's gross income by reason of the application of Code Sections 125, 402(e)(3), 402(h)(1)(B), 403(b), 414(h) or 457(b).

E2 FORMULA FOR DETERMINING EMPLOYER'S CONTRIBUTION

The Employer Contribution shall be equal to one hundred and fifty percent (150%) of the amount of Participant Mandatory Contributions made to the Plan on behalf of each Participant.

E3 FORFEITURES (Plan Section 4.3(e))

☒ Forfeitures of contributions shall be . . .

☒ Used to reduce Employer's contribution

E4 ALLOCATIONS TO ACTIVE PARTICIPANTS (Plan Section 4.3)

A Participant:

- a. ☒ shall
b. ☐ shall not

be required to complete a Year of Service in order to share in any Contributions or Forfeitures (if reallocated).

NOTE: A Year of Service for allocation purposes will be credited for a computation period in which an Employee completes at least 1,000 (insert 1,000 or fewer) Hours of Service.

E5 PARTICIPATING EMPLOYEES' MANDATORY EMPLOYEE CONTRIBUTIONS

An eligible Employee shall, subsequent to his Entry Date, contribute 5.2 % of his Compensation to the Plan.

Note: The Mandatory Contribution shall be considered "picked up" by the Employer under Section 414(h) of the code.

All Eligible Employees are required to make a Mandatory Contribution as a condition of employment.

E6 ALLOCATIONS TO TERMINATED PARTICIPANTS (Plan Section 4.3(f))

Any Participant who terminated employment during the Plan Year for reasons other than death, Total and Permanent Disability or retirement:

- a. ☒ shall share in the allocations of Contributions and Forfeitures provided such Participant completed more than 1 Hours of Service.
- b. ☐ shall not share in the allocations of Contributions and Forfeitures regardless of Hours of Service.

Note: All forfeitures shall be allocated in accordance with Section E3.

E7 ALLOCATIONS TO TERMINATED PARTICIPANTS (Plan Section 4.3(G))

Any Participant who terminated employment during the Plan Year as a result of death, Total and Permanent Disability or retirement:

- a. ☒ shall share in the allocations as provided in Section 4.3 of the basic plan document regardless of whether they complete the service requirement specified in E6 above.
- b. ☐ shall not receive an allocation unless the Participant completes the service requirement specified in E6 above.

E8 LIMITATIONS ON ALLOCATIONS (Plan Section 4.4)

- a. If any Participant is or was covered under another qualified defined contribution plan maintained by the Employer, or if the Employer maintains a welfare benefit fund, as defined in Code Section 415 (1)(2), under which amounts are treated as Annual Additions with respect to any Participant in this Plan:

1. ☒ N/A.

2. ☐ The provisions of Section 4.3(b) of the Plan will apply as if the other plan were a Master or Prototype Plan.

3. ☐ Provide the method under which the Plans will limit total Annual Additions to the Maximum Permissible Amount, and will properly reduce any Excess Amounts, in a manner that precludes Employer discretion.

- b. If any participant is or ever has been a Participant in a defined benefit plan maintained by the Employer:

1. ☐ N/A.

2. ☐ In any Limitation Year, beginning before January 1, 2000, the Annual Additions credited to the Participant under this Plan may not cause the sum of the Defined Benefit Plan Fraction and the Defined Contribution Fraction to exceed 1.0. If the Employer's contribution that would otherwise be made on the Participant's behalf during the limitation year would cause the 1.0 limitation to be exceeded, the rate of contribution under this Plan will be reduced so that the sum of the fractions equals 1.0. If the 1.0 limitation is exceeded because of an Excess Amount, such Excess Amount will be reduced in accordance with Section 4.4(a)(4) of the Plan.
3. ☐ Provide the method under which the Plans involved will satisfy the 1.0 limitation in a manner that precludes Employer discretion.
- _____
- _____
- _____

E9 FORM OF DISTRIBUTIONS (Plan Sections 6.5 and 6.6)
Distributions under the Plan may be made . . .

- a. ☒ in annuities
b. ☒ in lump sums
c. ☒ in lump sums or installments
d. ☐ in other _____

AND, regardless of any provisions in the Plan to the contrary, if the Participant's vested interest derived from Employer and Employee contributions does not exceed \$5,000 an immediate distribution shall be made.

E10 The provisions of Section 6.12, concerning domestic relations orders, ☒ shall ☐ shall not apply.

MISCELLANEOUS

F1 DIRECTED INVESTMENT ACCOUNTS (Plan Section 4.8) are permitted for the interest in any one or more accounts.

- a. ☒ Yes
b. ☐ No

F2 TRANSFERS FROM QUALIFIED PLANS (Plan Section 4.6)

- a. ☒ Yes, transfers from qualified plan (and rollovers) will be allowed.

b. ☐ No, transfers from qualified plans (and rollovers) will not be allowed.

F3 EMPLOYEES' VOLUNTARY CONTRIBUTIONS (Plan Section 4.7)

At least thirty (30) days prior to commencement of such contributions, a Participant may make written election to the Board to make Voluntary Supplemental Contributions to the Plan in increments of 1% of his Compensation up to a maximum of 10% of his Compensation. All Voluntary Supplemental Contributions, if any, made by a Participant will be effected by payroll deductions from such Participant's Compensation for each payroll period pursuant to a Voluntary Contribution Agreement.

IN WITNESS WHEREOF, the Employer and Trustee hereby cause this Plan to be executed on this ____ day of _____,

EMPLOYER:

By: _____

KERRY P. LAGAN

TRUSTEE

TRUSTEE

TRUSTEE

TRUSTEE

TRUSTEE

TRUSTEE

TRUSTEE

TRUSTEE

PARTICIPATING EMPLOYER:

By: _____

RECEIVED

DEC 12 2001

LANCASTER COUNTY
BOARD

The Lancaster County, Nebraska Employees Retirement Plan

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ARTICLE I DEFINITIONS

As used in this Plan, the following words and phrases shall have the meanings set forth herein unless a different meaning is clearly required by the context:

1.1 "Administrator" means the person(s) or entity designated by the Employer pursuant to Section 2.2 to administer the Plan on behalf of the Employer.

1.2 "Adoption Agreement" means the separate agreement, which is executed by the Employer and accepted by the Trustee which sets forth the elective provisions of this Plan and Trust as specified by the Employer.

1.3 "Aggregate Account" means with respect to each Participant, the value of all accounts maintained on behalf of a Participant, whether attributable to Employer or Employee contributions, subject to the provisions of Section 4.3

1.4 "Anniversary Date" means the anniversary date specified in C3 of the Adoption Agreement.

1.5 "Beneficiary" means the person to whom a share of a deceased Participant's interest in the Plan is payable, subject to the restrictions of Sections 6.2 and 6.6.

1.6 "Code" means the Internal Revenue Code of 1986, as amended from time to time.

1.7 "Compensation" with respect to any Participant means Code Section 3401(a) wages. Compensation is defined as wages within the meaning of Code Section 3401(a) for the purposes of income tax withholding at the source but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(2)).

If, in connection with the adoption of any amendment, the definition of Compensation has been modified, then, for Plan Years prior to the Plan Year which includes the adoption date of such amendment, Compensation means compensation determined pursuant to the Plan then in effect.

In addition, Compensation for all Plan purposes shall also include compensation which is not currently includible in the Participant's gross income by reason of the application of Code Sections 125, 132(f)(4), 402(e)(3), 402(h)(1)(B), 403(b), 414(h)(2) or 457(b).

Compensation in excess of \$150,000 shall be disregarded. Such amount shall be adjusted as permitted under Code Section 401(a)(17)(B).

For Plan Years beginning prior to January 1, 1989, the \$200,000 limit shall not apply.

In addition to other applicable limitations set forth in the Plan, and notwithstanding any other provision of the Plan to the contrary, for Plan Years beginning on or after January 1, 1996, the annual Compensation for each Employee taken into account under the Plan shall not exceed the OBRA '93 annual Compensation limit. The OBRA '93 annual Compensation limit is \$150,000, as adjusted by the Commissioner for increases in the cost of living in accordance with Code Section 401(a)(17)(B). The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding 12 months, over which Compensation is determined (determination period) beginning in such calendar year. If a determination period consists of fewer than 12 months, the OBRA '93 annual Compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12.

For Plan Years beginning on or after January 1, 1996, any reference in this Plan to the limitation under Code Section 401(a)(17) of the Code shall mean the OBRA '93 annual Compensation limit set forth in this provision.

If Compensation for any prior determination period is taken into account in determining an Employee's benefits accruing in the current Plan Year, the Compensation for that prior determination period is subject to the OBRA '93 Compensation limit in effect for that prior determination period. For this purpose, for determination periods

beginning before the first day of the Plan Year beginning on or after January 1, 1994, the OBRA '93 annual Compensation limit is \$150,000.

1.8 "Early Retirement Date" means the date specified in the Adoption Agreement on which a Participant or Former Participant has satisfied the age and service requirements specified in the Adoption Agreement (Early Retirement Age).

A Former Participant who terminates employment after satisfying the service requirement for Early Retirement and who thereafter reaches the age requirement contained herein shall be entitled to receive his benefits under this Plan.

1.9 "Eligible Employee" means any Employee specified in D1 of the Adoption Agreement.

1.10 "Employee" means any person who is employed by the Employer, but excludes any person who is employed as an independent contractor. The term Employee shall also include Leased Employees as provided in Section 1.26.

1.11 "Employer" means the entity specified in the Adoption Agreement, any Participating Employer (as defined in Section 10.1) which shall adopt this Plan, any successor which shall maintain this Plan and any predecessor which has maintained this Plan.

1.12 "Fiscal Year" means the Employer's accounting year as specified in the Adoption Agreement.

1.13 "Forfeiture" means that portion of a Participant's Account that is not Vested, and occurs on the earlier of:

- (a) the distribution of the entire Vested portion of a Participant's Account, or
- (b) the last day of the Plan Year in which the Participant incurs five (5) consecutive 1-Year Breaks in Service.

Furthermore, for purposes of paragraph (a) above, in the case of a Terminated Participant whose Vested benefit is zero, such Terminated Participant shall be deemed to have received a distribution of his Vested benefit upon his termination of employment. In addition, the term Forfeiture shall also include amounts deemed to be Forfeitures pursuant to any other provision of this Plan.

1.14 "Former Participant" means a person who has been a Participant, but who has ceased to be a Participant for any reason.

1.15 "415 Compensation" means compensation as defined in Section 4.4(f)(2).

If, in connection with the adoption of any amendment, the definition of "415 Compensation" has been modified, then, for Plan Years prior to the Plan Year which includes the adoption date of such amendment, "415 Compensation" means compensation determined pursuant to the Plan then in effect.

1.16 "Highly Compensated Employee" means an individual who has compensation in excess of \$80,000 (as indexed) from the Employer in the immediate prior year and, if the Employer elects the application of this clause for the preceding year, was in the top paid group of employees for such preceding year.

For this purpose, an employee is in the top paid group of employees for any year if such employee is in the group consisting of the top 20 percent of the employees when ranked on the basis of compensation paid during such year.

1.17 "Hour of Service" means (1) each hour for which an Employee is directly or indirectly compensated or entitled to compensation by the Employer for the performance of duties during the applicable computation period; (2) each hour for which an Employee is directly or indirectly compensated or entitled to compensation by the Employer (irrespective of whether the employment relationship has terminated) for reasons other than performance of duties (such as vacation, holidays, sickness, jury duty, disability, lay-off, military duty or leave of absence) during the applicable computation period; or (3) each hour for which back pay is awarded or agreed to by the Employer without regard to mitigation of damages. The same Hours of Service shall not be credited both under (1) or (2), as the case

may be, and under (3).

Notwithstanding the above, (i) no more than 501 Hours of Service are required to be credited to an Employee on account of any single continuous period during which the Employee performs no duties (whether or not such period occurs in a single computation period); (ii) an hour for which an Employee is directly or indirectly paid, or entitled to payment, on account of a period during which no duties are performed is not required to be credited to the Employee if such payment is made or due under a plan maintained solely for the purpose of complying with applicable worker's compensation, or unemployment compensation or disability insurance laws; and (iii) Hours of Service are not required to be credited for a payment which solely reimburses an Employee for medical or medically related expenses incurred by the Employee.

For purposes of this Section, a payment shall be deemed to be made by or due from the Employer regardless of whether such payment is made by or due from the Employer directly, or indirectly through, among others, a trust fund, or insurer, to which the Employer contributes or pays premiums and regardless of whether contributions made or due to the trust fund, insurer, or other entity are for the benefit of particular Employees or are on behalf of a group of Employees in the aggregate.

An Hour of Service must be counted for the purpose of determining a Year of Service, a year of participation for purposes of accrued benefits, a One-Year Break in Service, and employment commencement date (or reemployment commencement date).

Hours of Service will be credited for employment for any individual considered to be a Leased Employee pursuant to Code Sections 414(n) and the Regulations thereunder.

Hours of Service will be determined on the basis of the method selected in the Adoption Agreement.

1.18 "Investment Manager" means an entity that (a) has the power to manage, acquire, or dispose of Plan assets and (b) acknowledges fiduciary responsibility to the Plan in writing. Such entity must be a person, firm, or corporation registered as an investment adviser under the Investment Advisers Act of 1940, a bank, or an insurance company.

1.19 "Joint and Survivor Annuity" means an annuity for the life of a Participant with a survivor annuity for the life of the Participant's spouse which is not less than 1/2, nor greater than the amount of the annuity payable during the joint lives of the Participant and the Participant's spouse. The Joint and Survivor Annuity will be the amount of benefit which can be purchased with the Participant's Vested interest in the Plan.

1.20 "Late Retirement Date" means the date of, or the first day of the month or the Anniversary Date coinciding with or next following, whichever corresponds to the election made for the Normal Retirement Date, a Participant's actual retirement after having reached his Normal Retirement Date.

1.21 "Leased Employee" means any person (other than an Employee of the recipient) who pursuant to an agreement between the recipient and any other person ("leasing organization") has performed services for the recipient (or for the recipient and related persons determined in accordance with Code Section 414(n)(6)) on a substantially full time basis for a period of at least one year, and such services are of a type historically performed by employees in the business field of the recipient employer (or, effective with respect to Plan Years beginning on or after January 1, 1997, are services performed under primary direction or control of the recipient). Contributions or benefits provided a leased employee by the leasing organization which are attributable to services performed for the recipient employer shall be treated as provided by the recipient employer.

A leased employee shall not be considered an Employee of the recipient if: (i) such employee is covered by a money purchase pension plan providing: (1) a nonintegrated employer contribution rate of at least 10 percent of compensation, as defined in Code Section 415(c)(3), but including amounts contributed pursuant to a salary reduction agreement which are excludable from the employee's gross income under Code Sections 125, 402(e)(3), 402(h), 403(b) or 457(b), (2) immediate participation, and (3) full and immediate vesting; and (ii) leased employees do not constitute more than 20 percent of the recipient's nonhighly compensated workforce.

1.22 "Mandatory Employee Contribution" means Participant contributions which are to be made as a condition of employment with the Employer. Pursuant to Code Section 414(h), such contributions shall be picked up by the Employer and are deemed to be employer contributions and are not taxable income to the employee.

1.23 "Normal Retirement Age" means the age specified in the Adoption Agreement at which time a Participant shall become fully Vested in his or her participant's account.

1.24 "Normal Retirement Date" means the date specified in the Adoption Agreement on which a Participant shall become eligible to have his or her benefits distributed to him or her.

1.25 "One-Year Break in Service" means (a) if the Hours method is selected in the Adoption Agreement, the applicable computation period during which an Employee has not completed more than 500 Hours of Service with the Employer; or (b) if the elapsed time method is selected in the Adoption Agreement, a Period of Severance of at least 12 consecutive months

Further, solely for the purpose of determining whether a Participant has incurred a One-Year Break in Service, Hours of Service shall be recognized for "authorized leaves of absence" and "maternity and paternity leaves of absence".

"Authorized leave of absence" means an unpaid, temporary cessation from active employment with the Employer pursuant to an established nondiscriminatory policy, whether occasioned by illness, uniformed service, or any other reason.

A "maternity or paternity leave of absence" means, for Plan Years beginning after December 31, 1984, an absence from work for any period by reason of the Employee's pregnancy, birth of the Employee's child, placement of a child with the Employee in connection with the adoption of such child, or any absence for the purpose of caring for such child for a period immediately following such birth or placement. For this purpose, Hours of Service shall be credited for the computation period in which the absence from work begins, only if credit therefore is necessary to prevent the Employee from incurring a One-Year Break in Service, or, in any other case, in the immediately following computation period. The Hours of Service credited for a "maternity or paternity leave of absence" shall be those which would normally have been credited but for such absence, or, in any case in which the Administrator is unable to determine such hours normally credited, eight (8) Hours of Service per day. The total Hours of Service required to be credited for a "maternity or paternity leave of absence" shall not exceed 501.

1.26 "Participant" means any Eligible Employee who participates in the Plan as provided in Section 3.2 and has not for any reason become ineligible to participate further in the Plan.

1.27 "Participant's Account" means the account established and maintained by the Administrator for each Participant with respect to his or her total interest under the Plan resulting from the Employer's contributions.

1.28 "Participant's Combined Account" means the account established and maintained by the Administrator for each Participant with respect to his or her total interest under the Plan resulting from the Employer's contributions.

1.29 "Plan" means this instrument including all amendments thereto, and the Adoption Agreement as adopted by the Employer.

1.30 "Plan Year" means the Plan's accounting year as specified in C2 of the Adoption Agreement.

1.31 "Regulation" means the Income Tax Regulations as promulgated by the Secretary of the Treasury or his or her delegate, and as amended from time to time.

1.32 "Retired Participant" means a person who has been a Participant, but who has become entitled to retirement benefits under the Plan.

1.33 "Retirement Date" means the date as of which a Participant retires for reasons other than Total and Permanent Disability, whether such retirement occurs on a Participant's Normal Retirement Date, Early or Late Retirement Date (see Section 6.1).

1.34 "Terminated Participant" means a person who has been a Participant, but whose employment has been terminated other than by death, Total and Permanent Disability or retirement.

1.35 "Total and Permanent Disability" means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. The disability of a Participant shall be determined by a licensed physician chosen by the Administrator. However, if the condition constitutes total disability under the federal Social Security Acts, the Administrator may rely upon such determination that the Participant is Totally and Permanently Disabled for the purposes of this Plan. The determination shall be applied uniformly to all Participants.

1.36 "Trustee" means the person or entity named in B4 the Adoption Agreement and any successors.

1.37 "Trust Fund" means the assets of the Plan and Trust as the same shall exist from time to time.

1.38 "Vested Contributions" means the nonforfeitable portion of any account maintained on behalf of a Participant.

1.39 "Voluntary Contribution Account" means the account established and maintained by the Administrator for each Participant with respect to his total interest in the Plan resulting from the Participant's nondeductible voluntary contributions made pursuant to Section 4.6.

1.40 "Year of Service" means (a) if the hours method is selected in the Adoption Agreement, the computation period of twelve (12) consecutive months, herein set forth, and during which an Employee has completed at least the number of Hours of Service specified in the Adoption Agreement or (b) if the elapsed time method is selected, twelve (12) Months of Service.

If the hours method is selected in the Adoption Agreement, then for purposes of eligibility for participation, the initial computation period shall begin with the date on which the Employee first performs an Hour of Service (employment commencement date). The computation period beginning after a One-Year Break in Service shall be measured from the date on which an Employee again performs an Hour of Service. The succeeding computation periods shall begin with the first anniversary of the Employee's employment commencement date. However, if one (1) Year of Service or less is required as a condition of eligibility, then after the initial eligibility computation period, the eligibility computation period shall shift to the current Plan Year which includes the anniversary of the date on which the Employee first performed an Hour of Service. An Employee who is credited with the specified number of Hours of Service in both the initial eligibility computation period and the first Plan Year which commences prior to the first anniversary of the Employee's initial eligibility computation period will be credited with two Years of Service for purposes of eligibility to participate. For vesting purposes, the computation period shall be the Plan Year, including the period prior to the Effective Date of the Plan unless specifically excluded pursuant to the Adoption Agreement.

If the Elapsed time method is selected in the Adoption Agreement, then for purposes of determining an Employee's vesting and initial or continued eligibility to participate, an Employee will receive credit for the aggregate of all time periods commencing with the Employee's first day of employment or reemployment and ending on the date a Break in Service begins. The first day of employment is the first day the Employee performs an Hour of Service. An Employee will also receive credit for any period of severance of less than 12 consecutive months. Fractional periods of a year will be expressed in terms of days.

For vesting purposes, and all other purposes not specifically addressed in this Section, the computation period shall be the Plan Year, including periods prior to the Effective Date of the Plan unless specifically excluded pursuant to the Adoption Agreement.

Years of Service and breaks in service will be measured on the same computation period.

Years of Service with any predecessor Employer which maintained this Plan shall be recognized. Years of Service with any other predecessor Employer shall be recognized as specified in the Adoption Agreement.

ARTICLE II ADMINISTRATION

2.1 POWERS AND RESPONSIBILITIES OF THE EMPLOYER

(a) The Employer shall be empowered to appoint and remove the Trustee and the Administrator from time to time as it deems necessary for the proper administration of the Plan to assure that the Plan is being operated for the exclusive benefit of the Participants and their Beneficiaries in accordance with the terms of the Plan and the Code.

(b) The Employer may, in its discretion, appoint an Investment Manager to manage all or a designated portion of the assets of the Plan. In such event, the Trustee shall follow the directive of the Investment Manager in investing the assets of the Plan managed by the Investment Manager.

(c) The Employer shall periodically review the performance of any fiduciary or other person to whom duties have been delegated or allocated by it under the provisions of this Plan or pursuant to procedures established hereunder.

2.2 DESIGNATION OF ADMINISTRATIVE AUTHORITY

The Employer shall appoint one or more Administrators. Any person, including, but not limited to, the Employees of the Employer, shall be eligible to serve as an Administrator. Any person so appointed shall signify his or her acceptance by filing written acceptance with the Employer. An Administrator may resign by delivering his or her written resignation to the Employer or be removed by the Employer by delivery of written notice of removal, to take effect at a date specified therein, or upon delivery to the Administrator if no date is specified.

The Employer, upon the resignation or removal of an Administrator, shall promptly designate in writing a successor to this position. If the Employer does not appoint an Administrator, the Employer will function as the Administrator.

2.3 ALLOCATION AND DELEGATION OF RESPONSIBILITIES

If more than one person is appointed as Administrator, the responsibilities of each Administrator may be specified by the Employer and accepted in writing by each Administrator. In the event that no such delegation is made by the Employer, the Administrators may allocate the responsibilities among themselves, in which event the Administrators shall notify the Employer and the Trustee in writing of such action and specify the responsibilities of each Administrator. The Trustee thereafter shall accept and rely upon any documents executed by the appropriate Administrator until such time as the Employer or the Administrators file with the Trustee a written revocation of such designation.

2.4. POWERS AND DUTIES OF THE ADMINISTRATOR

The primary responsibility of the Administrator is to administer the Plan for the exclusive benefit of the Participants and their Beneficiaries, subject to the specific terms of the Plan. The Administrator shall administer the Plan in accordance with its terms and shall have the power and discretion to construe the terms of the Plan and determine all questions arising in connection with the administration, interpretation, and application of the Plan. Any such determination by the Administrator shall be conclusive and binding upon all persons. The Administrator may establish procedures, correct any defect, supply any information, or reconcile any inconsistency in such manner and to such extent as shall be deemed necessary or advisable to carry out the purpose of the Plan; provided, however, that any procedure, discretionary act, interpretation or construction shall be done in a nondiscriminatory manner based upon uniform principles consistently applied and shall be consistent with the intent that the Plan shall continue to be deemed a qualified plan under the terms of Code Section 401(a), and shall comply with its terms and all regulations issued pursuant thereto. The Administrator shall have all powers necessary or appropriate to accomplish his or her duties under this Plan.

The Administrator shall be charged with the duties of the general administration of the Plan, including, but not limited to, the following:

- (a) the discretion to determine all questions relating to the eligibility of Employees to participate or remain a Participant hereunder and to receive benefits under the Plan;
- (b) to compute, certify, and direct the Trustee with respect to the amount and the kind of benefits to which any Participant shall be entitled hereunder;
- (c) to authorize and direct the Trustee with respect to all nondiscretionary or otherwise directed disbursements from the Trust Fund;
- (d) to maintain all necessary records for the administration of the Plan;
- (e) to interpret the provisions of the Plan and to make and publish such rules for regulation of the Plan as are consistent with the terms hereof;
- (f) to determine the amount and type of any Contract or policy to be purchased from the Insurer;
- (g) to compute and certify to the Employer and to the Trustee from time to time the sums of money necessary or desirable to be contributed to the Trust Fund;
- (h) to consult with the Employer and the Trustee regarding the short and long-term liquidity needs of the Plan in order that the Trustee can exercise any investment discretion in a manner designed to accomplish specific objectives;
- (i) to prepare and distribute to Employees a procedure for notifying Participants and Beneficiaries of their rights to elect Joint and Survivor Annuities and Pre-Retirement Survivor Annuities;
- (j) to assist any Participant regarding his or her rights, benefits, or elections available under the Plan.

2.5 RECORDS AND REPORTS

The Administrator shall keep a record of all actions taken and shall keep all other books of account, records, and other data that may be necessary for proper administration of the Plan and shall be responsible for supplying all information and reports to the Internal Revenue Service, Department of Labor, Participants, Beneficiaries and others as required by law.

2.6 APPOINTMENT OF ADVISERS

The Administrator, or the Trustee with the consent of the Administrator, may appoint counsel, specialists, advisers, and other persons as the Administrator or the Trustee deems necessary or desirable in connection with the administration of this Plan.

2.7 INFORMATION FROM EMPLOYER

To enable the Administrator to perform his functions, the Employer shall supply full and timely information to the Administrator on all matters relating to the Compensation of all Participants, their Hours of Service, their Years of Service, their retirement, death, disability, or termination of employment, and such other pertinent facts as the Administrator may require; and the Administrator shall advise the Trustee of such of the foregoing facts as may be pertinent to the Trustee's duties under the Plan. The Administrator may rely upon such information as is supplied by the Employer and shall have no duty or responsibility to verify such information.

2.8 PAYMENT OF EXPENSES

All expenses of administration may be paid out of the Trust Fund unless paid by the Employer. Such expenses shall include any expenses incident to the functioning of the Administrator, including, but not limited to, fees of accountants, counsel, and other specialists and their agents, and other costs of administering the Plan. Until paid, the expenses shall constitute a liability of the Trust Fund. However, the Employer may reimburse the Trust Fund for any administration expense incurred. Any administration expense paid to the Trust Fund as a reimbursement shall not be considered an Employer contribution.

2.9 MAJORITY ACTIONS

Except where there has been an allocation and delegation of administrative authority pursuant to Section 2.3, if there shall be more than one Administrator, they shall act by a majority of their number, but may authorize one or more of them to sign all papers on their behalf.

2.10 CLAIMS PROCEDURE

Any person who believes that he or she is entitled to a benefit under the Plan shall have the right to file with the Plan Administrator a written notice of claim for such benefit.

Within 120 days after its receipt of such written notice of claim, the Plan Administrator shall either grant or deny such claim provided, however, any delay on the part of the Plan Administrator in arriving at a decision shall not adversely affect benefits payable under a granted claim.

ARTICLE III ELIGIBILITY

3.1 CONDITIONS OF ELIGIBILITY

Any Eligible Employee shall be eligible to participate hereunder on the date he or she has satisfied the requirements specified in the Adoption Agreement.

3.2 EFFECTIVE DATE OF PARTICIPATION

An Eligible Employee who has become eligible to be a Participant shall become a Participant effective as of the day specified in the Adoption Agreement.

In the event an Employee who has satisfied the Plan's eligibility requirements and would otherwise have become a Participant shall go from a classification of a noneligible Employee to an Eligible Employee, such Employee shall become a Participant as of the date he or she becomes an Eligible Employee.

In the event an Employee who has satisfied the Plan's eligibility requirements and would otherwise become a Participant shall go from a classification of an Eligible Employee to a noneligible Employee and becomes ineligible to participate and has not incurred a OneYear Break in Service, such Employee shall participate in the Plan as of the date he returns to an eligible class of Employees. If such Employee does incur a OneYear Break in Service, eligibility will be determined under the break in service rules of the Plan.

3.3 DETERMINATION OF ELIGIBILITY

The Administrator shall determine the eligibility of each Employee for participation in the Plan based upon information furnished by the Employer. Such determination shall be conclusive and binding upon all persons, as long as the same is made pursuant to the Plan. Such determination shall be subject to review per Section 2.10.

3.4 TERMINATION OF ELIGIBILITY

In the event a Participant shall go from a classification of an Eligible Employee to an ineligible Employee, such Former Participant shall continue to vest in his or her interest in the Plan for each Year of Service completed while a noneligible Employee, until such time as his or her Participant's Account shall be forfeited or distributed pursuant to the terms of the Plan. Additionally, his or her interest in the Plan shall continue to share in the earnings of the Trust Fund.

3.5 OMISSION OF ELIGIBLE EMPLOYEE

If, in any Plan Year, any Employee who should be included as a Participant in the Plan is erroneously omitted and discovery of such omission is not made until after a contribution by his or her Employer for the year has been made, the Employer shall make a subsequent contribution, if necessary after the application of Section 4.3(e), so that the omitted Employee receives a total amount which the said Employee would have received had he or she not been omitted.

3.6 INCLUSION OF INELIGIBLE EMPLOYEE

If, in any Plan Year, any person who should not have been included as a Participant in the Plan is erroneously included and discovery of such incorrect inclusion is not made until after a contribution for the year has been made, the Employer shall not be entitled to recover the contribution made with respect to the

ineligible person. In such event, the amount contributed with respect to the ineligible person shall constitute a Forfeiture for the Plan Year in which the discovery is made.

3.7 ELECTION NOT TO PARTICIPATE

An Employee of any Participating Employer who adopts a Plan in which Mandatory Contributions are picked-up by such Participating Employer pursuant to Code Section 414(h) (a "Pick-up Plan") shall not be permitted to waive participation in the Plan. However, notwithstanding any other Plan provision to the contrary, where the Plan is not a Pick-up Plan, an Employee may elect to waive participation in the Plan. If an Employee makes the election referred to in the preceding sentence, he or she shall not receive any waived contribution in cash, and such election shall be (1) in writing; (2) a one-time irrevocable election; (3) made when the Employee commences employment or, if later, when such Employee first becomes eligible to participate in any plan of the Participating Employer; and (4) applicable with respect to all plans of the Participating Employer, including plans that have not then been established by the Participating Employer.

ARTICLE IV CONTRIBUTION AND ALLOCATION

4.1 FORMULA FOR DETERMINING EMPLOYER'S CONTRIBUTION

The Employer shall make contributions over such period of years as the Employer may determine on the following basis. On behalf of each Participant eligible to share in allocations, for each year of his or her participation in this Plan, the Employer shall contribute the amount specified in the Adoption Agreement. All contributions by the Employer shall be made in cash or in such unencumbered property as is acceptable to the Trustee.

4.2 TIME OF PAYMENT OF EMPLOYER'S CONTRIBUTION

The Employer shall generally pay to the Trustee its contribution to the Plan for each Plan Year within the time prescribed by law.

4.3 ALLOCATION OF CONTRIBUTION, FORFEITURES AND EARNINGS

(a) The Administrator shall establish and maintain an account in the name of each Participant to which the Administrator shall credit as of each Anniversary Date, or other valuation date, all amounts allocated to each such Participant as set forth herein.

(b) The Employer shall provide the Administrator with all information required by the Administrator to make a proper allocation of the Employer's contributions for each Plan Year. Within a reasonable period of time after the date of receipt by the Administrator of such information, the Administrator shall allocate such contribution as follows:

(i) The Employer's Contribution shall be allocated to each Participant's Combined Account in the manner set forth in Section 4.1 herein and as specified in Section E2 of the Adoption Agreement.

(c) As of each Anniversary Date or other valuation date, before allocation of Employer contributions and Forfeitures, any earnings or losses (net appreciation or net depreciation) of the Trust Fund shall be allocated in the same proportion that each Participant's and Former Participant's nonsegregated accounts bear to the total of all Participants' and Former Participants' nonsegregated accounts as of such date. If any nonsegregated account of a Participant has been distributed prior to the Anniversary Date or other valuation date subsequent to a Participant's termination of employment, no earnings or losses shall be credited to such account. If contributions are allocated directly to a Participant's Account, the Participant's Account shall be credited with the actual earnings or losses attributable to such contributions.

Notwithstanding the above, with respect to contributions made to a plan after the previous Anniversary Date or allocation date, the method specified in the Adoption Agreement shall be used.

(d) As of each Anniversary Date any amounts which became Forfeitures since the last Anniversary Date shall first be made available to reinstate previously forfeited account balances of Former Participants, if any, in accordance with Section 6.4(e)(2) or be used to satisfy any contribution that may be required pursuant to Section 3.5 and/or 6.9. The remaining Forfeitures, if any, shall be treated in accordance with the Adoption Agreement. Provided, however, that in the event the allocation of Forfeitures provided herein shall cause the "Annual Addition" (as defined in Section 4.4) to any Participant's Account to exceed the amount allowable by the Code, the excess shall be reallocated in accordance with Section 4.5.

(e) Notwithstanding anything herein to the contrary, any Participant who terminated employment during the Plan Year for reasons other than death, Total and Permanent Disability, or retirement shall or shall not share in the allocations of the Employer's Contributions and Forfeitures, as provided in the Adoption Agreement.

(f) Notwithstanding anything herein to the contrary, Participants terminating for reasons of death, Total and Permanent Disability, or retirement shall or shall not share in the allocations as provided in this Section as elected in the Adoption Agreement.

(g) If a Former Participant is reemployed after five (5) consecutive One-Year Breaks in Service, then the Participant's accounts shall be maintained as follows:

- (1) one account for nonforfeitable benefits attributable to pre-break service; and
- (2) one account representing his employer derived account balance in the Plan attributable to post-break service.

(h) Notwithstanding anything herein to the contrary, Participants will accrue the right to share in allocations of Employer contributions with respect to periods of qualified military service as provided in Code Section 414(u).

4.4 MAXIMUM ANNUAL ADDITIONS

(a)(1) If the Participant does not participate in, and has never participated in another qualified plan maintained by the Employer, or a welfare benefit fund (as defined in Code Section 419(e)), maintained by the Employer, or an individual medical account (as defined in Code Section 415(1)(2)) maintained by the Employer, which provides Annual Additions, or a simplified employee pension (as defined in Code Section 408(k)) the amount of Annual Additions which may be credited to the Participant's accounts for any Limitation Year shall not exceed the lesser of the Maximum Permissible Amount or any other limitation contained in this Plan. If the Employer contribution that would otherwise be contributed or allocated to the Participant's accounts would cause the Annual Additions for the Limitation Year to exceed the Maximum Permissible Amount, the amount contributed or allocated will be reduced so that the Annual Additions for the Limitation Year will equal the Maximum Permissible Amount.

(2) Prior to determining the Participant's actual compensation for the Limitation Year, the Employer may determine the Maximum Permissible Amount for a Participant on the basis of a reasonable estimation of the Participant's compensation for the Limitation Year, uniformly determined for all Participants similarly situated.

(3) As soon as is administratively feasible after the end of the Limitation Year, the Maximum Permissible Amount for such Limitation Year shall be determined on the basis of the Participant's actual compensation for such Limitation Year.

(4) If there is an excess amount pursuant to Section 4.4(a)(2) or Section 4.5, the excess will be disposed of in the following manner:

(i) Any nondeductible voluntary employee contributions (plus attributable earnings), to the extent they would reduce the Excess Amount, will be distributed to the Participant;

(ii) If, after the application of subparagraph (i), an Excess Amount still exists, and the Participant is covered by the Plan at the end of the Limitation Year, the Excess Amount in the Participant's account will be used to reduce Employer contributions (including any allocation of Forfeitures) for such Participant in the next Limitation Year, and each succeeding Limitation Year if necessary;

(iii) If, after the application of subparagraph (i), an Excess Amount still exists, and the Participant is not covered by the Plan at the end of a Limitation Year, the Excess Amount will be held unallocated in a suspense account. The suspense account will be applied to reduce future Employer contributions (including allocation of any Forfeitures) for all remaining Participants in the next Limitation Year, and each succeeding Limitation Year if necessary;

(iv) if a suspense account is in existence at any time during a Limitation Year pursuant to this Section, it will not participate in the allocation of investment gains and losses. If a suspense account is in existence at any time during a particular limitation year, all amounts in the suspense account must be allocated and reallocated to participants' accounts before any employer contributions or any employee contributions may be made to the plan for that limitation year. Excess amounts in the suspense account may not be distributed to Participants or Former Participants.

(b)(1) This subsection applies if, in addition to this Plan, the Participant is covered under another qualified defined contribution plan maintained by the Employer, or a welfare benefit fund (as defined in Code Section 419(e)) maintained by the Employer, or a simplified employee pension maintained by the Employer, or an individual medical account (as defined in Code Section 415(1)(2)) maintained by the Employer, which provides Annual Additions, during any Limitation Year. The Annual Additions which may be credited to a Participant's accounts under this Plan for any such Limitation Year shall not exceed the Maximum Permissible Amount reduced by the Annual Additions credited to a Participant's accounts under the other plans and welfare benefit funds for the same limitation Year. If the Annual Additions with respect to the Participant under other defined contribution plans and welfare benefit funds maintained by the Employer are less than the Maximum Permissible Amount and the Employer contribution that would otherwise be contributed or allocated to the Participant's accounts under this Plan would cause the Annual Additions for the Limitation Year to exceed this limitation, the amount contributed or allocated will be reduced so that the Annual Additions under all such plans and welfare benefit funds for the Limitation Year will equal the Maximum Permissible Amount. If the Annual Additions with respect to the Participant under such other defined contribution plans and welfare benefit funds in the aggregate are equal to or greater than the Maximum Permissible Amount, no amount will be contributed or allocated to the Participant's account under this Plan for the Limitation Year.

(2) Prior to determining the Participant's actual Compensation for the Limitation Year, the Employer may determine the Maximum Permissible Amount for a Participant in the manner described in Section 4.4(a)(2).

(3) As soon as is administratively feasible after the end of the Limitation Year, the Maximum Permissible Amount for the Limitation Year will be determined on the basis of the Participant's actual Compensation for the Limitation Year.

(4) If, pursuant to Section 4.4(b)(2) or Section 4.5, a Participant's Annual Additions under this Plan and such other plans would result in an Excess Amount for a Limitation Year, the Excess Amount will be deemed to consist of the Annual Additions last allocated, except that Annual Additions attributable to a simplified employee pension, will be deemed to have been allocated first, followed by Annual Additions to a welfare benefit fund or individual medical account, regardless of the actual allocation date.

(5) If an Excess Amount was allocated to a Participant on an allocation date of this Plan which coincides with an allocation date of another plan, the Excess Amount attributed to this Plan will be the product of:

(i) the total Excess Amount allocated as of such date, times

(ii) the ratio of (1) the Annual Additions allocated to the Participant for the Limitation Year as of such date under this Plan to (2) the total Annual Additions allocated to the Participant for the Limitation Year as of such date under this and all the other qualified defined contribution plans.

(6) Any Excess Amount attributed to this Plan will be disposed in the manner described in Section 4.4(a)(4).

(c) If the Participant is covered under another qualified defined contribution plan maintained by the Employer, Annual Additions which may be credited to the Participant's Account under this Plan for any Limitation Year will be limited in accordance with Section 4.4(b), unless the Employer provides other limitations in the Adoption Agreement.

(d) If the Employer maintains, or at any time maintained, a qualified defined benefit plan covering any Participant in this Plan, the sum of the Participant's Defined Benefit Plan Fraction and Defined Contribution Plan Fraction will not exceed 1.0 in any Limitation Year commencing before January 1, 2000. The Annual Additions which may be credited to the Participant's Account under this Plan for any Limitation Year will be limited in accordance with the Limitation on Allocations Section of the Adoption Agreement.

(e) For purposes of applying the limitations of Code Section 415, the transfer of funds from one qualified plan to another is not an "annual addition." In addition, the following are not Employee contributions for the purposes of Section 4.4(f)(1)(2): (1) rollover contributions (as defined in Code Sections 402(c)(4), 403(a)(4), 403(b)(8) and 408(d)(3)); (2) repayments of loans made to a Participant from the Plan; (3) repayments of distributions received by an Employee pursuant to Code Section 411(a)(7)(B) (cash-outs); (4) repayments of distributions received by an Employee pursuant to Code Section 411(a)(3)(D) (mandatory contributions); and (5) Employee contributions to a simplified employee pension.

(f) For purposes of this Section, the following terms shall be defined as follows:

(1) "Annual Additions" means the sum credited to a Participant's accounts for any Limitation Year of (1) Employer contributions, (2) effective with respect to "limitation years" beginning after December 31, 1986, Employee contributions, (3) forfeitures and (4) amounts allocated, after March 31, 1984, to an individual medical account, as defined in Code Section 415(1)(2), which is part of a pension or annuity plan maintained by the Employer. Except, however, the "415 Compensation" percentage limitation referred to in paragraph (a)(2) above shall not

apply to: (1) any contribution for medical benefits (within the meaning of Code Section 419A(f)(2)) after separation from service which is otherwise treated as an "annual addition," or (2) any amount otherwise treated as an "annual addition" under Code Section 415(1)(1). Notwithstanding the foregoing, for "limitation years" beginning prior to January 1, 1987, only that portion of Employee contributions equal to the lesser of Employee contributions in excess of six percent (6%) of "415 Compensation" or one-half of Employee contributions shall be considered an "annual addition."

For this purpose, any Excess Amount applied under Sections 4.4(a)(4) and 4.4(b)(6) in the Limitation Year to reduce Employer contributions shall be considered Annual Additions for such Limitation Year.

(2) "Compensation" means a Participant's Compensation as elected in the Adoption Agreement. However, regardless of any selection made in the Adoption Agreement, for Limitation Years beginning prior to January 1, 1998, "415 Compensation" shall exclude compensation which is not currently includible in the Participant's gross income by reason of the application of Code Sections 125, 132(f)(4), 402(e)(3), 402(h)(1)(B), 403(b), 414(h) or 457(b). For Limitation Years beginning after December 31, 1997, such amounts, except for 414(h), shall be included.

For Limitation Years beginning after December 31, 1991, for purposes of applying the limitations of this article, compensation for a limitation year is the compensation actually paid or made available during such limitation year.

Notwithstanding the preceding sentence, compensation for a participant in a defined contribution plan who is Permanently and Totally Disabled (as defined in Code section 22(e)(3)) is the compensation such participant would have received for the limitation year if the participant had been paid at the rate of compensation paid immediately before becoming Permanently and Totally Disabled; such imputed compensation for the disabled participant may be taken into account only if the participant is not a Highly Compensated Employee and contributions made on behalf of such participant are nonforfeitable when made.

(3) "Defined Benefit Fraction" means a fraction, the numerator of which is the sum of the Participant's Projected Annual Benefits under all the defined benefit plans (whether or not terminated) maintained by the Employer, and the denominator of which is the lesser of 125 percent of the dollar limitation determined for the Limitation Year under Code Sections 415(b) and (d) or 140 percent of his or her Highest Average Compensation including any adjustments under Code Section 415(b).

Notwithstanding the above, if the Participant was a Participant as of the first day of the first Limitation Year beginning after December 31, 1986, in one or more defined benefit plans maintained by the Employer which were in existence on May 6, 1986, the denominator of this fraction will not be less than 125 percent of the sum of the annual benefits under such plans which the Participant had accrued as of the end of the close of the last Limitation Year beginning before January 1, 1987, disregarding any changes in the terms and conditions of the plan after May 5, 1986. The preceding sentence applies only if the defined benefit plans individually and in the aggregate satisfied the requirements of Code Section 415 for all Limitation Years beginning before January 1, 1987.

(4) "Defined Contribution Dollar Limitation" means \$30,000, as adjusted under Code Section 415(d).

(5) "Defined Contribution Fraction" means a fraction, the numerator of which is the sum of the Annual Additions to the Participant's Account under all the defined contribution plans (whether or not terminated) maintained by the Employer for the current and all prior Limitation Years, (including the Annual Additions attributable to the Participant's nondeductible voluntary employee contributions to any defined benefit plans, whether or not terminated, maintained by the Employer for the current and all prior Limitation Years, to any simplified employee pensions, and the annual additions attributable to all welfare benefit funds, as defined in Code Section 419(e), and individual medical accounts, as defined in Code Section 415(1)(2), maintained by the Employer), and the denominator of which is the sum of the maximum aggregate amounts for the current and all prior Limitation Years of Service with the Employer (regardless of whether a defined contribution plan was maintained by the Employer). The maximum aggregate amount in any Limitation Year is the lesser of 125 percent of the Defined Contribution Dollar Limitation or 35 percent of the Participant's Compensation for such year. For Limitation Years beginning prior to January 1, 1987, the "Annual Addition" shall not be recomputed to treat all Employee contributions as an Annual Addition.

If the Employee was a Participant as of the end of the first day of the first Limitation Year beginning after December

31, 1986, in one or more defined contribution plans maintained by the Employer which were in existence on May 6, 1986, the numerator of this fraction will be adjusted if the sum of this fraction and the Defined Benefit Fraction would otherwise exceed 1.0 under the terms of this Plan. Under the adjustment, an amount equal to the product of (1) the excess of the sum of the fractions over 1.0 times (2) the denominator of this fraction, will be permanently subtracted from the numerator of this fraction. The adjustment is calculated using the fractions as they would be computed as of the end of the last Limitation Year beginning before January 1, 1987, and disregarding any changes in the terms and conditions of the plan made after May 5, 1986, but using the Code Section 415 limitation applicable to the first Limitation Year beginning on or after January 1, 1987.

(6) "Employer" means the Employer that adopts this Plan and all Affiliated Employers, except that for purposes of this Section, affiliated employers shall be determined pursuant to the modification made by Code Section 415(h).

(7) "Excess Amount" means the excess of the Participant's Annual Additions for the Limitation Year over the Maximum Permissible Amount.

(8) "Highest Average Compensation" means the average Compensation for the three consecutive Years of Service with the Employer that produces the highest average. A Year of Service with the Employer is the 12 consecutive month period defined in Section E1 of the Adoption Agreement which is used to determine Compensation under the Plan.

(9) "Limitation Year" means the Compensation Year (a 12 consecutive month period) as elected by the Employer in the Adoption Agreement. All qualified plans maintained by the Employer must use the same Limitation Year. If the Limitation Year is amended to a different 12 consecutive month period, the new Limitation Year must begin on a date within the Limitation Year in which the amendment is made.

(10) "Maximum Permissible Amount" means the maximum Annual Addition that may be contributed or allocated to a Participant's account under the plan for any Limitation Year, which shall not exceed the lesser of:

- (i) the Defined Contribution Dollar Limitation, or
- (ii) 25 percent of the Participant's Compensation for the Limitation Year.

The Compensation Limitation referred to in (ii) shall not apply to any contribution for medical benefits (within the meaning of Code Sections 401(h) or 419A(f)(2)) which is otherwise treated as an annual addition under Code Sections 415(1)(1) or 419A(d)(2).

If a short Limitation Year is created because of an amendment changing the Limitation Year to a different 12 consecutive month period, the Maximum Permissible Amount will not exceed the Defined Contribution Dollar Contribution multiplied by the following fraction:

$$\frac{\text{number of months in the short Limitation Year}}{12}$$

12

(11) "Projected Annual Benefit" means the annual retirement benefit (adjusted to an actuarially equivalent straight life annuity if such benefit is expressed in a form other than a straight life annuity or qualified Joint and Survivor Annuity) to which the Participant would be entitled under the terms of the Plan assuming:

- (i) the Participant will continue employment until Normal Retirement Age (or current age, if later), and
- (ii) the Participant's Compensation for the current Limitation Year and all other relevant factors used to determine benefits under the Plan will remain constant for all future Limitation Years.

(g) Notwithstanding anything contained in this Section to the contrary, the limitations, adjustments and other requirements prescribed in this Section shall at all times comply with the provisions of Code Section 415 and the Regulations thereunder, the terms of which are specifically incorporated herein by reference.

4.5 ADJUSTMENT FOR EXCESSIVE ANNUAL ADDITIONS

(a) If as a result of the allocation of Forfeitures, a reasonable error in estimating a Participant's annual Compensation, a reasonable error in determining the amount of elective deferrals (within the meaning of Code Section 402(g)(3)) that may be made with respect to any Participant under the limits of Section 4.4, or other facts and circumstances to which Regulation 1.415-6(b)(6) shall be applicable, the "Annual Additions" under this Plan would cause the maximum provided in Section 4.4 to be exceeded, the Administrator shall treat the excess in accordance with Section 4.4(a)(4).

4.6 VOLUNTARY CONTRIBUTIONS

(a) If elected in the Adoption Agreement, each Participant may, at the discretion of the Administrator in a nondiscriminatory manner, elect to voluntarily contribute a portion of his or her compensation earned while a Participant under such plan. Such contributions shall be paid to the Trustee within a reasonable period of time but in no event later than 90 days after the receipt of the contribution.

(b) The balance in each Participant's Voluntary Contribution Account shall be Vested Contributions at all times and shall not be subject to Forfeiture for any reason.

(c) A Participant may elect to withdraw his voluntary contributions from his or her Voluntary Contribution Account and the actual earnings thereon in a manner which is consistent with and satisfies the provisions of Section 6.5. If the Administrator maintains sub-accounts with respect to voluntary contributions (and earnings thereon) which were made on or before a specified date, a Participant shall be permitted to designate which sub-account shall be the source for his or her withdrawal. No Forfeitures shall occur solely as a result of an Employee's withdrawal of Elective Contributions.

In the event such a withdrawal is made, or in the event a Participant has received a hardship distribution pursuant to Regulation 1.401(k)-1(d)(2)(iii)(B) from any plan maintained by the Employer, then such Participant shall be barred from making any voluntary contributions for a period of twelve (12) months after receipt of the withdrawal or distribution.

(d) At Normal Retirement Date, or such other date when the Participant or his or her Beneficiary shall be entitled to receive benefits, the fair market value of the Voluntary Contribution Account shall be used to provide additional benefits to the Participant or his or her Beneficiary.

(e) The Administrator may direct that Elective Contributions made after a valuation date be segregated into a separate account until such time as the allocations pursuant to this Plan have been made, at which time they may remain segregated or be invested as part of the general Trust Fund, to be determined by the Administrator.

4.7 MANDATORY EMPLOYEE CONTRIBUTIONS

(a) The Employer may elect in the Adoption Agreement that all Eligible Employees must contribute Mandatory Employee Contributions to the Plan as a condition of employment with the Employer. The Employer shall collect such contributions and remit them to the Trustee. The Employer may "pick up" such contributions as provided in Internal Revenue Code Section 414(h).

(b) Mandatory Employee Contributions shall be 100% Vested when made and shall be distributed as provided by Article VI.

4.8 DIRECTED INVESTMENT ACCOUNT

(a) If elected in the Adoption Agreement, all Participants may direct the Trustee as to the investment of their individual account balances. Participants may direct the Trustee in writing to invest their account in specific assets as permitted by the Administrator provided such investments are permitted by the Plan. The account of any Participant so directing will thereupon be considered a Directed Investment Account.

(b) A separate Directed Investment Account shall be established for each Participant who has directed an investment. Transfers between the Participant's regular account and their Directed Investment Account shall be charged and credited as the case may be to each account. The Directed Investment Account shall not share in Trust Fund Earnings, but it shall be charged or credited as appropriate with the net earnings, gains, losses and expenses as well as any appreciation or depreciation in market value during each Plan Year attributable to such account.

(c) The Administrator shall establish a procedure, to be applied in a uniform and nondiscriminatory manner, setting forth the permissible investment options under this Section, how often changes between investments may be made, and any other limitations that the Administrator shall impose on a Participant's right to direct investments.

ARTICLE V VALUATIONS

5.1 VALUATION OF THE TRUST FUND

The Administrator shall direct the Trustee, as of each Anniversary Date, and at such other date or dates deemed necessary, by the Administrator, herein called the "Valuation Date," to determine the net worth of the assets comprising the Trust Fund as it exists on the "Valuation Date." In determining such net worth, the Trustee shall value the assets comprising the Trust Fund at their fair market value as of the "Valuation Date" and shall deduct all expenses for which the Trustee has not yet obtained reimbursement from the Employer or the Trust Fund.

5.2 METHOD OF VALUATION

In determining the fair market value of securities held in the Trust Fund which are listed on a registered stock exchange, the Administrator shall direct the Trustee to value the same at the prices they were last traded on such exchange preceding the close of business on the "Valuation Date." If such securities were not traded on the "Valuation Date," or if the exchange on which they are traded was not open for business on the "Valuation Date," then the securities shall be valued at the prices at which they were last traded prior to the "Valuation Date." Any unlisted security held in the Trust Fund shall be valued at its bid price next preceding the close of business on the "Valuation Date," which bid price shall be obtained from a registered broker or an investment banker. In determining the fair market value of assets other than securities for which trading or bid prices can be obtained, the Trustee may appraise such assets itself, or in its discretion, employ one or more appraisers for that purpose and rely on the values established by such appraiser or appraisers. Where the Trust Fund assets include an annuity contract, it shall be valued at the annuity contract value.

ARTICLE VI DETERMINATION AND DISTRIBUTION OF BENEFITS

6.1 DETERMINATION OF BENEFITS UPON RETIREMENT

Every Participant may terminate his or her employment with the Employer and retire for the purposes hereof on or after his or her Normal Retirement Date or Early Retirement Date. However, a Participant may postpone the termination of his or her employment with the Employer to a later date, in which event the participation of such Participant in the Plan, including the right to receive allocations pursuant to Section 4.3, shall continue until his or her Late Retirement Date. Upon a Participant's Retirement Date, or attainment of his or her Normal Retirement Date without termination of employment with the Employer, or as soon thereafter as is practicable, the Administrator shall direct, at the election of the Participant, the distribution of all amounts credited to such Participant's Combined Account in accordance with Section 6.5.

6.2 DETERMINATION OF BENEFITS UPON DEATH

(a) Upon the death of a Participant before his or her Retirement Date or other termination of his or her employment, all amounts credited to such Participant's Combined Account shall become fully Vested. The Administrator shall direct, in accordance with the provisions of Sections 6.6 and 6.7, the distribution of the deceased Participant's accounts to the Participant's Beneficiary.

(b) Upon the death of a Former Participant, the Administrator shall direct, in accordance with the provisions of Sections 6.6 and 6.7, the distribution of any remaining amounts credited to the accounts of such deceased Former Participant to such Former Participant's Beneficiary.

(c) The Administrator may require such proper proof of death and such evidence of the right of any person to receive payment of the value of the account of a deceased Participant or Former Participant as the Administrator may deem desirable. The Administrator's determination of death and of the right of any person to receive payment shall be conclusive.

(d) A Participant may file written notice with the Board designating his Beneficiary or Beneficiaries and secondary Beneficiary or Beneficiaries. The Participant may change his Beneficiary designation from time to time by filing succeeding written notices with the Board, and, in such case, each succeeding designation will revoke all prior designations. However, if a Participant is legally married at the time of his death, any designation of a Beneficiary other than the person who is his legal spouse at the time of death will be void, and such legal spouse will be his sole Beneficiary, unless such spouse has consented to the designation of such other person as Beneficiary in a written, signed and notarized statement.

6.3 DETERMINATION OF BENEFITS IN EVENT OF DISABILITY

In the event of a Participant's Total and Permanent Disability prior to his or her Retirement Date or other termination of employment, all amounts credited to such Participant's Combined Account shall become fully Vested. In the event of a Participant's Total and Permanent Disability, the Administrator, in accordance with the provisions of Sections 6.5 and 6.7, shall direct the distribution to such Participant of all amounts credited to such Participant's Combined Account as though he or she had retired.

6.4 DETERMINATION OF BENEFITS UPON TERMINATION

(a) On or before the Anniversary Date, or other valuation date, coinciding with or subsequent to the termination of a Participant's employment for any reason other than retirement, death, or Total and Permanent Disability, the Administrator may direct that the amount of the Vested portion of such Terminated Participant's Combined Account be segregated and invested separately. In the event the Vested portion of a Participant's Combined Account is not segregated, the amount shall remain in a separate account for the Terminated Participant and share in allocations pursuant to Section 4.3 until such time as a distribution is made to the Terminated Participant. The amount of the portion of the Participant's Combined Account which is not Vested may be credited to a separate account (which will always share in gains and losses of the Trust Fund) and at such time as the amount becomes a Forfeiture shall be treated in accordance with the provisions of the Plan regarding Forfeitures.

Distribution of the funds due to a Terminated Participant shall be made on the occurrence of an event which would result in the distribution had the Terminated Participant remained in the employ of the Employer i.e. upon the Participant's death, Total and Permanent Disability, Early, Normal or Late Retirement Date. However, at the election of the Participant, the Administrator shall direct that the entire vested portion of the Terminated Participant's Combined Account to be payable to such Terminated Participant provided the conditions, if any, set forth in the Adoption Agreement have been satisfied. Any distribution under this paragraph shall be made in a manner which is consistent with and satisfies the provisions of Section 6.5.

Notwithstanding the above, if the value of a Terminated Participant's Vested benefit derived from Employer and Employee contributions does not exceed \$5,000, the Administrator shall direct that the entire Vested benefit be paid to such Participant in a single lump-sum without regard to the consent of the Participant or the Participant's spouse.

(b) The vested portion of any Participant's Account shall be a percentage of such Participant's Account determined on the basis of the Participant's number of Years of Service according to the vesting schedule specified in the Adoption Agreement.

(c) Notwithstanding the vesting schedule above, upon the complete discontinuance of the Employer's contributions to the Plan or upon any full or partial termination of the Plan, all amounts credited to the account of any affected Participant shall become 100% Vested and shall not thereafter be subject to Forfeiture.

(d) If this is an amended or restated Plan, then notwithstanding the vesting schedule specified in the Adoption Agreement, the vested percentage of a Participant's Account shall not be less than the vested percentage attained as of the later of the effective date of the Plan or adoption date of this amendment and restatement. The computation of a Participant's nonforfeitable percentage of his or her interest in the Plan shall not be reduced as the result of any direct or indirect amendment to this Article.

(e)(1) If any Former Participant shall be reemployed by the Employer before a One-Year Break in Service occurs, he or she shall continue to participate in the Plan in the same manner as if such termination had not occurred.

(2) If any Former Participant shall be reemployed by the Employer before six (6) consecutive One-Year Breaks in Service, and such Former Participant had received a distribution of his or her entire Vested interest prior to his or her reemployment, his or her forfeited account shall be reinstated only if he or she repays the full amount distributed to him or her before the earlier of six (6) years after the first date on which the Participant is subsequently reemployed by the Employer or the close of the first period of 5 consecutive One-Year Breaks in Service commencing after the distribution. If a distribution occurs for any reason other than a separation from service, the time for repayment may not end earlier than six (6) years after the date of separation. In the event the Former Participant does repay the full amount distributed to him, the undistributed portion of the Participant's Account must be restored in full, unadjusted by any gains or losses occurring subsequent to the Anniversary Date or other valuation date preceding his termination. If an employee receives a distribution pursuant to this section and the employee resumes employment covered under this plan, the employee's employer-derived account balance will be restored to the amount on the date of distribution if the employee repays to the plan the full amount of the distribution attributable to employer contributions before the earlier of 5 years after the first date on which the participant is subsequently re-employed by the employer, or the date the participant incurs six (6) consecutive One-Year Breaks in Service following the date of the distribution. If a non-vested Former Participant was deemed to have received a distribution and such Former Participant is reemployed by the Employer before six (6) consecutive One-Year Breaks in Service, then such Participant will be deemed to have repaid the deemed distribution as of the date of reemployment.

(3) If any Former Participant is reemployed after a One-Year Break in Service has occurred, Years of Service shall include Years of Service prior to his One-Year Break in Service subject to the following rules:

(i) Any Former Participant who under the Plan does not have a nonforfeitable right to any interest in the Plan resulting from Employer contributions shall lose credits if his or her consecutive One-Year Breaks in Service equal or exceed the greater of (A) five (5) or (B) the aggregate number of his or her pre-break Years of Service;

(ii) After five (5) consecutive One-Year Breaks in Service, a Former Participant's vested Account balance attributable to pre-break service shall not be increased as a result of post-break service;

(iii) A Former Participant who is reemployed and who has not had his or her Years of Service before a One-Year Break in Service disregarded pursuant to (i) above, shall participate in the Plan as of his date of reemployment;

(iv) If a Former Participant again becomes eligible to participate (a One-Year Break in Service previously occurred, but employment had not terminated), he shall participate in the Plan from the first day on which he again becomes eligible.

(f) In determining Years of Service for purposes of vesting under the Plan, Years of Service shall be excluded as specified in the Adoption Agreement.

(g) In determining Years of Service for purposes of vesting under the Plan, Years of Service will be credited to Participants with respect to periods of qualified military service as provided in Code Section 414(u).

6.5 DISTRIBUTION OF BENEFITS

(a) The benefits shall be distributed to those Participants eligible to receive benefits, at the election of such Participants. In a single lump sum payment or in a life annuity with no period certain, or a life annuity with a period certain of 5, 10 or 15 years, or an annuity for the life of the Participant with a survivor annuity for the life of the Participant's spouse that is 100%, 66 2/3% or 50%, as determined by the Participant, of the amount of the annuity payable during the joint lives of the Participant and the spouse.

(b) In the event a Participant duly elects not to receive his or her benefit in the form of a Joint and Survivor Annuity, or in the form of a life annuity, the Administrator, pursuant to the election of the Participant, shall direct the distribution to a Participant or Beneficiary any amount to which he or she is entitled under the Plan in one or more of the following methods which are permitted pursuant to the Adoption Agreement:

(1) One lump-sum payment in cash;

(2) Payments over a period certain in monthly, quarterly, semiannual, or annual cash installments. In order to provide such installment payments, the Administrator may direct that the Participant's interest in the Plan be segregated and invested separately, and that the funds in the segregated account be used for the payment of the installments. The period over which such payment is to be made shall not extend beyond the Participant's life expectancy (or the life expectancy of the Participant and his designated Beneficiary);

(3) Purchase of or providing an annuity. However, such annuity may not be in any form that will provide for payments over a period extending beyond either the life of the Participant (or the lives of the Participant and his designated Beneficiary) or the life expectancy of the Participant (or the life expectancy of the Participant and his designated Beneficiary).

(c) The present value of a Participant's benefit derived from Employer and Employee contributions may not be paid without his written consent if the value exceeds \$5,000. Further, the spouse of a Participant must consent in writing to any immediate distribution. If the value of the Participant's benefit derived from Employer and Employee contributions does not exceed \$5,000, the administrator may immediately distribute such benefit without such Participant's consent. No distribution may be made under the preceding sentence after the "annuity starting date" unless the Participant and his or her spouse consent in writing to such distribution. Any written consent required under this paragraph must be obtained not more than 90 days before commencement of the distribution and shall be made in a manner consistent with Section 6.5(a)(2).

(d) Any distribution to a Participant who has a benefit which exceeds \$5,000 shall require such Participant's consent if such distribution commences prior to the later of his Normal Retirement Age or age 62. With regard to this required consent:

(1) No consent shall be valid unless the Participant has received a general description of the material features and an explanation of the relative values of the optional forms of benefit available under the Plan that would satisfy the notice requirements of Code Section 417.

(2) The Participant must be informed of his right to defer receipt of the distribution. If a Participant fails to consent to an immediate distribution, it shall be deemed an election to defer the commencement of payment of any benefit. However, any election to defer the receipt of benefits shall not apply with respect to distributions which are required under Section 6.5(e).

(3) Notice of the rights specified under this paragraph shall be provided no less than 30 days and no more than 90 days before the "annuity starting date."

(4) Written consent of the Participant to the distribution must not be made before the Participant receives the notice and must not be made more than 90 days before the "annuity starting date."

(5) No consent shall be valid if a significant detriment is imposed under the Plan on any Participant who does not consent to the distribution.

(e) Notwithstanding any provision in the Plan to the contrary, the distribution of a Participant's benefits, made on or after January 1, 1985, whether under the Plan or through the purchase of an annuity Contract, shall be made in accordance with the following requirements and shall otherwise comply with Code Section 401(a)(9) and the Regulations thereunder (including Regulation Section 1.401(a)(9)-2), the provisions of which are incorporated herein by reference:

(1) A Participant's benefits shall be distributed to him or her not later than April 1st of the calendar year following the later of (i) the calendar year in which the Participant attains age 70 1/2 or (ii) the calendar year in which the Participant retires. Alternatively, distributions to a Participant must begin no later than the applicable April 1st as determined under the preceding sentence and must be made over the life of the Participant (or the lives of the Participant and the Participant's designated Beneficiary) or, if benefits are paid in the form of a Joint and Survivor Annuity, the life expectancy of the Participant (or the life expectancies of the Participant and his or her designated Beneficiary) in accordance with applicable Regulations.

(2) Distributions to a Participant and his or her Beneficiaries shall only be made in accordance with the incidental death benefit requirements of Code Section 401(a)(9)(G) and the Regulations thereunder.

(f) For purposes of this Section, the life expectancy of a Participant and a Participant's spouse (other than in the case of a life annuity) shall be predetermined annually in accordance with applicable Regulations if permitted pursuant to the Adoption Agreement. If the Participant or the Participant's spouse may elect whether recalculations will be made, then the election, once made, shall be irrevocable. If no election is made by the time distributions must commence, then the life expectancy of the Participant and the Participant's spouse shall not be subject to recalculation. Life expectancy and joint and last survivor expectancy shall be computed using the return multiples in Tables V and VI of Regulation 1.72-9.

(g) All annuity Contracts under this Plan shall be non-transferable when distributed. Furthermore, the terms of any annuity Contract purchased and distributed to a Participant or spouse shall comply with all of the requirements of this Plan.

(h) Subject to any spouse's right of consent afforded under the Plan, the restrictions imposed by this Section shall not apply if a Participant has, prior to January 1, 1984, made a written designation to have his retirement benefit paid in an alternative method acceptable under Code Section 401(a) as in effect prior to the enactment of the Tax Equity and Fiscal Responsibility Act of 1982.

(i) If a distribution is made at a time when a Participant who has not terminated employment is not fully vested in his or her Participant's Account and the Participant may increase the Vested percentage in such account:

(1) A separate account shall be established for the Participant's interest in the Plan as of the time of the distribution, and

(2) At any relevant time the Participant's vested portion of the separate account shall be equal to an amount ("X") determined by the formula:

$$X \text{ equals } P(AB \text{ plus } (R \times D)) - (R \times D)$$

For purposes of applying the formula: P is the vested percentage at the relevant time, AB is the account balance at the relevant time, D is the amount of distribution, and R is the ratio of the account balance at the relevant time to the account balance after distribution.

6.6 DISTRIBUTION OF BENEFITS UPON DEATH

The Administrator shall direct the immediate distribution of the death benefit to the Participant's beneficiary in one lump-sum payment in cash. Notwithstanding any provision in the Plan to the contrary, distributions upon the death of a Participant made on or after January 1, 1985, shall be made in accordance with the following requirements and shall otherwise comply with Code Section 401(a)(9) and the Regulations hereunder. If it is determined, pursuant to Regulations, that the distribution of a Participant's interest has begun and the Participant dies before his or her entire interest has been distributed to him or her, the remaining portion of such interest shall be distributed at least as rapidly as under the method of distribution selected pursuant to Section 6.5 as of the date of death.

6.7 TIME OF SEGREGATION OR DISTRIBUTION

Except as limited by Sections 6.5 and 6.6, whenever a distribution is to be made, or a series of payments are to commence, on or as of an Anniversary Date, the distribution or series of payments may be made or begun on such date or as soon thereafter as is practicable, but in no event later than 180 days after the Anniversary Date. However, unless a Former Participant elects in writing to defer the receipt of benefits (such election may not result in a death benefit that is more than incidental), the payment of benefits shall begin not later than the 60th day after the close of the Plan Year in which the latest of the following events occurs: (a) the date on which the Participant attains the earlier of age 62 or the Normal Retirement Age specified herein; (b) the 10th anniversary of the year in which the Participant commenced participation in the Plan; or (c) the date the Participant terminates his service with the Employer.

Notwithstanding the foregoing, the failure of a Participant and, if applicable, the Participant's spouse, to consent to a distribution pursuant to Section 6.5(d), shall be deemed to be an election to defer the commencement of payment of any benefit sufficient to satisfy this Section.

6.8 DISTRIBUTION FOR MINOR BENEFICIARY

In the event a distribution is to be made to a minor, then the Administrator may direct that such distribution be paid to the legal guardian, or if none, to a parent of such Beneficiary or a responsible adult with whom the Beneficiary maintains his or her residence, or to the custodian for such Beneficiary under the Uniform Gift to Minors Act or Gift to Minors Act, if such is permitted by the laws of the state in which said Beneficiary resides. Such a payment to the legal guardian, custodian or parent of a minor Beneficiary shall fully discharge the Trustee, Employer, and Plan from further liability on account thereof.

6.9 LOCATION OF PARTICIPANT OR BENEFICIARY UNKNOWN

In the event that all, or any portion, of the distribution payable to a Participant or his or her Beneficiary hereunder shall, at the later of the Participant's attainment of age 62 or his or her Normal Retirement Age, remain unpaid solely by reason of the inability of the Administrator, after sending a registered letter, return receipt requested, to the last known address, and after further diligent effort, to ascertain the whereabouts of such Participant or his or her Beneficiary, the amount so distributable shall be treated as a Forfeiture pursuant to the Plan. In the event a Participant or Beneficiary is located subsequent to his or her benefit being reallocated, such benefit shall be restored, first from Forfeitures, if any, and then from an additional Employer contribution if necessary.

6.10 LIMITATIONS ON BENEFITS AND DISTRIBUTIONS

If elected on the Adoption Agreement and subject to the terms of state law, any distribution to any "alternate payee" under a domestic relations order, shall be treated as if made under the terms of a "qualified domestic relations order," as defined in Code Section 414(p). Notwithstanding the foregoing sentence, a Participant's benefits under this plan shall be subject to any domestic relations order entered before January 1, 1985, if payments had commenced as of such date.

ARTICLE VII TRUSTEE

7.1 BASIC RESPONSIBILITIES OF THE TRUSTEE

The Trustee shall have the following categories of responsibilities:

(a) Consistent with the "funding policy and method" determined by the Employer, to invest, manage, and control the Plan assets subject, however, to the direction of an Investment Manager, if the Employer should appoint such manager as to all or a portion of the assets of the Plan;

(b) At the direction of the Administrator, to pay benefits required under the Plan to be paid to Participants, or, in the event of their death, to their Beneficiaries;

(c) To maintain records of receipts and disbursements and furnish to the Employer and/or Administrator for each Plan Year a written annual report per Section 7.7; and

(d) If there shall be more than one Trustee, they shall act by a majority of their number, but may authorize one or more of them to sign papers on their behalf.

7.2 INVESTMENT POWERS AND DUTIES OF THE TRUSTEE

(a) The Trustee shall invest and reinvest the Trust Fund to keep the Trust Fund invested without distinction between principal and income and in such securities or property, real or personal, wherever situated, as the Trustee shall deem advisable, including, but not limited to, stocks, common or preferred, bonds and other evidences of indebtedness or ownership, and real estate or any interest therein. The Trustee shall at all times in making investments of the Trust Fund consider, among other factors, the short and long-term financial needs of the Plan on the basis of information furnished by the Employer. In making such investments, the Trustee shall not be restricted to securities or other property of the character expressly authorized by the applicable law for trust investments; however, the Trustee shall give due regard to any limitations imposed by the Code or the Act so that at all times this Plan may qualify as a qualified Plan and Trust.

(b) The Trustee may employ a bank or trust company pursuant to the terms of its usual and customary bank agency agreement, under which the duties of such bank or trust company shall be of a custodial, clerical and record-keeping nature.

(c) The Trustee may from time to time transfer to a common, collective, or pooled trust fund maintained by any corporate Trustee hereunder pursuant to Revenue Ruling 81-100, all or such part of the Trust Fund as the Trustee may deem advisable, and such part or all of the Trust Fund so transferred shall be subject to all the terms and provisions of the common, collective, or pooled trust fund which contemplate the commingling for investment purposes of such trust assets with trust assets of other trusts. The Trustee may withdraw from such common, collective, or pooled trust fund all or such part of the Trust Fund as the Trustee may deem advisable.

7.3 OTHER POWERS OF THE TRUSTEE

The Trustee, in addition to all powers and authorities under common law, statutory authority and other provisions of this Plan, shall have the following powers and authorities to be exercised in the Trustee's sole discretion:

(a) To purchase, or subscribe for, any securities or other property and to retain the same. In conjunction with the purchase of securities, margin accounts may be opened and maintained;

(b) To sell, exchange, convey, transfer, grant options to purchase, or otherwise dispose of any securities or other property held by the Trustee, by private contract or at public auction. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity,

expediency, or propriety of any such sale or other disposition, with or without advertisement;

(c) To vote upon any stocks, bonds, or other securities; to give general or special proxies or powers of attorney with or without power of substitution; to exercise any conversion privileges, subscription rights or other options, and to make any payments incidental thereto; to oppose, or to consent to, or otherwise participate in, corporate reorganizations or other changes affecting corporate securities, and to delegate discretionary powers, and to pay any assessments or charges in connection therewith; and generally to exercise any of the powers of an owner with respect to stocks, bonds, securities, or other property;

(d) To cause any securities or other property to be registered in the Trustee's own name or in the name of one or more of the Trustees nominees, and to hold any investments in bearer form, but the books and records of the Trustee shall at all times show that all such investments are part of the Trust Fund;

(e) To borrow or raise money for the purposes of the Plan in such amount, and upon such terms and conditions, as the Trustee shall deem advisable; and for any sum so borrowed, to issue a promissory note as Trustee, and to secure the repayment thereof by pledging all, or any part, of the Trust Fund; and no person lending money to the Trustee shall be bound to see to the application of the money lent or to inquire into the validity, expediency, or propriety of any borrowing;

(f) To keep such portion of the Trust Fund in cash or cash balances as the Trustee may, from time to time, deem to be in the best interests of the Plan, without liability for interest thereon;

(g) To accept and retain for such time as it may deem advisable any securities or other property received or acquired by it as Trustee hereunder, whether or not such securities or other property would normally be purchased as investments hereunder;

(h) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(i) To settle, compromise, or submit to arbitration any claims, debts, or damages due or owing to or from the Plan, to commence or defend suits or legal or administrative proceedings, and to represent the Plan in all suits and legal and administrative proceedings;

(j) To employ suitable agents and counsel and to pay their reasonable expenses and compensation, and such agent or counsel may or may not be agent or counsel for the Employer;

(k) To apply for and procure from the insurer as an investment of the Trust Fund such annuity, or other Contracts (on the life of any Participant or group of participants) as the Administrator shall deem proper; to exercise, at any time or from time to time, whatever rights and privileges may be granted under such annuity, or other Contracts; to collect, receive, and settle for the proceeds of all such annuity, or other Contracts as and when entitled to do so under the provisions thereof;

(l) To invest funds of the Trust in time deposits or savings accounts bearing a reasonable rate of interest in the Trustee's bank;

(m) To invest in Treasury Bills and other forms of United States government obligations;

(n) To sell, purchase and acquire put or call options if the options are traded on and purchased through a national securities exchange registered under the Securities Exchange Act of 1934, as amended, or, if the options are not traded on a national securities exchange, are guaranteed by a member firm of the New York Stock Exchange;

(o) To deposit monies in federally insured savings accounts or certificates of deposit in banks or savings and loan associations;

(p) To pool all or any of the Trust Fund, from time to time, with assets belonging to any other qualified employee pension benefit trust created by the Employer or any Affiliated Employer, and to commingle such assets and make joint or common investments and carry joint accounts on behalf of this Plan and such other trust or trusts,

allocating undivided shares or interests in such investments or accounts or any pooled assets of the two or more trusts in accordance with their respective interests;

(g) To do all such acts and exercise all such rights and privileges, although not specifically mentioned herein, as the Trustee may deem necessary to carry out the purposes of the Plan.

7.4 DUTIES OF THE TRUSTEE REGARDING PAYMENTS

At the direction of the Administrator, the Trustee shall, from time to time, in accordance with the terms of the Plan, make payments out of the Trust Fund. The Trustee shall not be responsible in any way for the application of such payments.

7.5 TRUSTEE'S COMPENSATION AND EXPENSES AND TAXES

The Trustee shall be paid such reasonable compensation as set forth in the Trustee's fee schedule, if any, or as otherwise agreed upon in writing by the Employer and the Trustee. An individual serving as Trustee who already receives full-time pay from the Employer shall not receive compensation from this Plan. In addition, the Trustee shall be reimbursed for any reasonable expenses, including reasonable counsel fees incurred by it as Trustee. Such compensation and expenses shall be paid from the Trust Fund unless paid or advanced by the Employer. All taxes of any kind and all kinds whatsoever that may be levied or assessed under existing or future laws upon, or in respect of, the Trust Fund or the income thereof, shall be paid from the Trust Fund to the extent permitted by law.

7.6 ANNUAL REPORT OF THE TRUSTEE

Within a reasonable period of time after the later of the Anniversary Date or receipt of the Employer's contribution for each Plan Year, the Trustee, or its agent, shall furnish to the Employer and Administrator a written statement of account with respect to the Plan Year for which such contribution was made setting forth:

- (a) the net income, or loss, of the Trust Fund;
- (b) the gains, or losses, realized by the Trust Fund upon sales or other disposition of the assets;
- (c) the increase, or decrease, in the value of the Trust Fund;
- (d) all payments and distributions made from the Trust Fund; and
- (e) such further information as the Trustee and/or Administrator deems appropriate. The Employer, forthwith upon its receipt of each such statement of account, shall acknowledge receipt thereof in writing and advise the Trustee and/or Administrator of its approval or disapproval thereof. Failure by the Employer to disapprove any such statement of account within thirty (30) days after its receipt thereof shall be deemed an approval thereof. The approval by the Employer of any statement of account shall be binding as to all matters embraced therein as between the Employer and the Trustee to the same extent as if the account of the Trustee had been settled by judgment or decree in an action for a judicial settlement of its account in a court of competent jurisdiction in which the Trustee, the Employer and all persons having or claiming an interest in the Plan were parties; provided, however, that nothing herein contained shall deprive the Trustee of its right to have its accounts judicially settled if the Trustee so desires.

7.7 RESIGNATION, REMOVAL AND SUCCESSION OF TRUSTEE

(a) The Trustee may resign at any time by delivering to the Employer, at least thirty (30) days before its effective date, a written notice of resignation.

(b) The Employer may remove the Trustee by mailing by registered or certified mail, addressed to such Trustee at the Trustee's last known address, at least thirty (30) days before its effective date, a written notice of removal.

(c) upon the death, resignation, incapacity, or removal of any Trustee, a successor may be appointed by the

Employer; and such successor, upon accepting such appointment in writing and delivering same to the Employer, shall, without further act, become vested with all the estate, rights, powers, discretion's, and duties of the predecessor with like respect as if originally named as a Trustee herein. Until such a successor is appointed, the remaining Trustee or Trustees shall have full authority to act under the terms of the Plan.

(d) The Employer may designate one or more successors prior to the death, resignation, incapacity, or removal of a Trustee. In the event a successor is so designated by the Employer and accepts such designation, the successor shall, without further act, become vested with all the estate, rights, powers, discretion's, and duties of the predecessor with the like effect as if originally named as Trustee herein immediately upon the death, resignation, incapacity, or removal of the predecessor.

(e) Whenever any Trustee hereunder ceases to serve as such, such Trustee shall furnish to the Employer and Administrator a written statement of account with respect to the portion of the Plan Year during which such Trustee served. This statement shall be either (i) included as part of the annual statement of account for the Plan Year required under Section 7.7, or (ii) set forth in a special statement. Any such special statement of account should be rendered to the Employer no later than the due date of the annual statement of account for the Plan Year. The procedures set forth in Section 7.7 for the approval by the Employer of annual statements of account shall apply to any special statement of account rendered hereunder and approval by the Employer of any such special statement in the manner provided in Section 7.7 shall have the same effect upon the statement as the Employer's approval of an annual statement of account. No successor to the Trustee shall have any duty or responsibility to investigate the acts or transactions of any predecessor who has rendered all statements of account required by Section 7.7 and this subparagraph.

7.8 TRANSFER OF INTEREST

Notwithstanding any other provision contained in this Plan, the Trustee, at the direction of the Administrator, shall transfer the vested interest, if any, of such Participant in his account to another trust forming part of a pension, profit sharing, or stock bonus plan maintained by such Participant's new employer and represented by said employer in writing as meeting the requirements of Code Section 401(a), provided that the trust to which such transfers are made permits the transfer to be made.

(a) Notwithstanding any provision of the plan to the contrary, with respect to distributions made after December 31, 1992, a Participant shall be permitted to elect to have any "eligible rollover distribution" transferred directly to an "eligible retirement plan" specified by the Participant. The Plan provisions otherwise applicable to distributions continue to apply to the direct transfer option. The Participant shall, in the manner prescribed by the Administrator, specify the amount to be directly transferred and the "eligible retirement plan" to receive the transfer. Any portion of a distribution which is not transferred shall be distributed to the Participant.

(b) For purposes of this Section, the term "eligible rollover distribution" means any distribution other than (i) a distribution of substantially equal periodic payments (not less frequently than annually) over the life or life expectancy of the Participant (or joint life or joint life expectancies of the Participant and the designated beneficiary) or a distribution over a period certain of ten years or more; (ii) amounts required to be distributed under Code Section 401(a)(9); (iii) the portion of any other distribution that is not includible in gross income; (iv) excess annual additions, and income allocable thereto, returned pursuant to Section 4.5; (v) corrective distributions of excess deferrals, together with the income allocable thereto, pursuant to Section 11.2(f); (vi) loans that are deemed distributed under Code Section 72(p); (vii) the cost of coverage under a life insurance contract (P.S. 58 costs), (viii) any hardship distribution described in Code Section 401(k)(2)(B)(i)(IV) and (ix) similar items designated by the Commissioner in revenue rulings, notices and other guidance published in the Internal Revenue Bulletin.

(c) For purposes of this Section, the term "eligible retirement plan" means (i) an individual retirement account as described in Code Section 408(a); (ii) an individual retirement annuity as described in Code Section 408(b); (iii) an annuity plan as described in Code Section 403(a); or (iv) a defined contribution plan as described in Code Section 401(a) which is exempt from tax under Code Section 501(a) and which accepts rollover distributions, provided that the Plan Administrator of such plan represents in writing that such plan meets the requirements of Code Section 401(a).

(d) The election described in subsection (a) shall also be available to the surviving spouse after the Participant's death; however, distributions to the surviving spouse may only be transferred to an individual retirement account or

individual retirement annuity. For purposes of subsection (a), a spouse or former spouse who is the alternate payee under a qualified domestic relations order as defined in Code Section 414(p) will be treated as the Participant.

7.9 TRUSTEE INDEMNIFICATION

The Employer agrees to indemnify and save harmless the Trustee against any and all claims, losses, damages, expenses and liabilities the Trustee may incur in the exercise and performance of the Trustee's powers and duties hereunder, unless the same are determined to be due to gross negligence or willful misconduct.

ARTICLE VIII AMENDMENT, TERMINATION, AND MERGERS

8.1 AMENDMENT

(a) The Employer shall have the right at any time to amend this Plan subject to the limitations of this Section. However, any amendment which affects the rights, duties or responsibilities of the Trustee and Administrator may only be made with the Trustee's and Administrator's written consent. Any such amendment shall become effective as provided therein upon its execution. The Trustee shall not be required to execute any such amendment unless the amendment affects the duties of the Trustee hereunder.

(b) No amendment to the Plan shall be effective if it authorizes or permits any part of the Trust Fund (other than such part as is required to pay taxes and administration expenses) to be used for or diverted to any purpose other than for the exclusive benefit of the Participants or their Beneficiaries or estates; or causes any reduction in the amount credited to the account of any Participant; or causes or permits any portion of the Trust Fund to revert to or become property of the Employer.

8.2 TERMINATION

(a) The Employer shall have the right at any time to terminate the Plan by delivering to the Trustee and Administrator written notice of such termination. Upon any full or partial termination, all amounts credited to the affected Participants' Combined Accounts shall become 100% vested and shall not thereafter be subject to forfeiture, and all unallocated amounts shall be allocated to the accounts of all Participants in accordance with the provisions hereof.

(b) Upon the full termination of the Plan, the Employer shall direct the distribution of the assets to Participants in a manner which is consistent with and satisfies the provisions of Section 6.5. Distributions to a Participant shall be made in cash (or in property if permitted in the Adoption Agreement) or through the purchase of irrevocable nontransferable deferred commitments from the Insurer.

8.3 MERGER OR CONSOLIDATION

This Plan may be merged or consolidated with, or its assets and/or liabilities may be transferred to any other plan only if the benefits which would be received by a Participant of this Plan, in the event of a termination of the plan immediately after such transfer, merger or consolidation, are at least equal to the benefits the Participant would have received if the Plan had terminated immediately before the transfer, merger or consolidation.

ARTICLE IX MISCELLANEOUS

9.1 EMPLOYER ADOPTIONS

(a) Any organization may become the Employer hereunder by executing the Adoption Agreement in form satisfactory to the Trustee, and it shall provide such additional information as the Trustee may require. The consent of the Trustee to act as such shall be signified by its execution of the Adoption Agreement.

(b) Except as otherwise provided in this Plan, the affiliation of the Employer and the participation of its Participants shall be separate and apart from that of any other employer and its participants hereunder.

9.2 PARTICIPANT'S RIGHTS

Nothing contained in this Plan shall be deemed to give any Participant or Employee the right to be retained in the service of the Employer or to interfere with the right of the Employer to discharge any Participant or Employee at any time regardless of the effect which such discharge shall have upon him as a Participant of this Plan.

9.3 ALIENATION

(a) Subject to the exceptions provided below, no benefit which shall be payable to any person (including a Participant or his Beneficiary) shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, or charge the same shall be void. No such benefit shall in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements, or torts of any such person, nor shall it be subject to attachment or legal process for or against such person, and the same shall not be recognized except to such extent as may be required by law.

(b) This provision shall not apply to the extent a Participant or Beneficiary is indebted to the Plan, for any reason, under any provision of this Plan. At the time a distribution is to be made to or for a Participant's or Beneficiary's benefit, such proportion of the amount to be distributed equal to such indebtedness shall be paid to the Plan, to apply against or discharge such indebtedness. Prior to making a payment, however, the Participant or Beneficiary must be given written notice by the Administrator that such indebtedness is to be so paid in whole or part from his or her Participant's Combined Account. If the Participant or Beneficiary does not agree that the indebtedness is a valid claim against his or her Vested Participant's Combined Account, he or she shall be entitled to a review of the validity of the claim in accordance with procedures provided in Section 2.10.

(c) This provision shall not apply to a "qualified domestic relations order" defined in Code Section 414(p), and those other domestic relations orders permitted to be so treated by the Administrator under the provisions of the Retirement Equity Act of 1984. The Administrator shall establish a written procedure to determine the qualified status of domestic relations orders and to administer distributions under such qualified orders. Further, to the extent provided under a "qualified domestic relations order," a former spouse of a Participant shall be treated as the spouse or surviving spouse for all purposes under the Plan.

(d) Notwithstanding any provision of this Section to the contrary, an offset to a Participant's accrued benefit against an amount that the Participant is ordered or required to pay the Plan with respect to a judgement, order, or decree issued, or a settlement entered into, on or after August 5, 1997, shall be permitted in accordance with Code sectional 401(a)(13)(C).

9.4 CONSTRUCTION OF PLAN

This Plan and Trust shall be construed and enforced according to the Code and the laws of the State or Commonwealth in which the Employer's principal office is located, other than its laws respecting choice of law, to the extent not pre-empted by the Code.

9.5 GENDER AND NUMBER

Wherever any words are used herein in the masculine, feminine or neuter gender, they shall be construed as though they were also used in all of the other genders in all cases where they would so apply, and whenever any words are used herein in the singular or plural form, they shall be construed as though they were also used in the other form in all cases where they would so apply.

9.6 LEGAL ACTION

In the event any claim, suit, or proceeding is brought regarding the Trust Fund and/or Plan established hereunder to which the Trustee or the Administrator may be a party, and such claim, suit, or proceeding is resolved in favor of the

Trustee or Administrator, they shall be entitled to be reimbursed from the Trust Fund for any and all costs, attorney's fees, and other expenses pertaining thereto incurred by them for which they shall have become liable.

9.7 PROHIBITION AGAINST DIVERSION OF FUNDS

(a) Except as provided below and otherwise specifically permitted by law, it shall be impossible by operation of the Plan or of the Trust, by termination of either, by power of revocation or amendment, by the happening of any contingency, by collateral arrangement or by any other means, for any part of the corpus or income of any Trust Fund maintained pursuant to the Plan or any funds contributed thereto to be used for, or diverted to, purposes other than the exclusive benefit of Participants, Retired Participants, or their Beneficiaries.

(b) In the event the Employer shall make a contribution under a mistake of fact, the Employer may demand repayment of such contribution at any time within one (1) year following the time of payment and the Trustees shall return such amount to the Employer within the one (1) year period. Earnings of the Plan attributable to the contributions may not be returned to the Employer but any losses attributable thereto must reduce the amount so returned.

9.8 EMPLOYER'S AND TRUSTEE'S PROTECTIVE CLAUSE

Neither the Employer nor the Trustee, nor their successors, shall be responsible for the validity of any Contract issued hereunder or for the failure on the part of the Insurer to make payments provided by any such Contract, or for the action of any person which may delay payment or render a Contract null and void or unenforceable in whole or in part.

9.9 INSURER'S PROTECTIVE CLAUSE

The Insurer who shall issue Contracts hereunder shall not have any responsibility for the validity of this Plan or for the tax or legal aspects of this Plan. The Insurer shall be protected and held harmless in acting in accordance with any written direction of the Trustee, and shall have no duty to see to the application of any funds paid to the Trustee, at the Trustee's direction, nor be required to question any actions directed by the Trustee. Regardless of any provision of this Plan, the Insurer shall not be required to take or permit any action or allow any benefit or privilege contrary to the terms of any Contract which it issues hereunder, or the rules of the Insurer.

9.10 RECEIPT AND RELEASE FOR PAYMENTS

Any payment to any Participant, his or her legal representative, Beneficiary, or to any guardian or committee appointed for such Participant or Beneficiary in accordance with the provisions of this Plan, shall, to the extent thereof, be in full satisfaction of all claims hereunder against the Trustee and the Employer.

9.11 ACTION BY THE EMPLOYER

Whenever the Employer under the terms of the Plan is permitted or required to do or perform any act or matter or thing, it shall be done and performed by a person duly authorized by the Employer's legally constituted authority.

9.12 HEADINGS

The headings and subheadings of this Plan have been inserted for convenience of reference and are to be ignored in any construction of the provisions hereof.

9.13 APPROVAL BY INTERNAL REVENUE SERVICE

Notwithstanding anything herein to the contrary, if, pursuant to a timely application filed by or in behalf of the Plan, the Commissioner of Internal Revenue Service or his delegate should determine that the Plan does not initially qualify as a tax-exempt plan and trust under Code Sections 401 and 501, respectively, and such determination is not contested, or if contested, is finally upheld, then if the Plan is a new plan, it shall be void from its establishment and all amounts contributed to the Plan, by the Employer, less expenses paid, shall be returned within one year. Thereafter, the Plan shall terminate and the Trustee shall be discharged from all further obligations.

If the disqualification relates to an amended plan, then the Plan shall operate as if it had not been amended and restated,

except with respect to any part of the amended Plan which shall not cause Plan disqualification.

9.14 UNIFORMITY

All provisions of this Plan shall be interpreted and applied in a uniform, nondiscriminatory manner.

9.15 PAYMENT OF BENEFITS

Benefits under this Plan shall be paid, subject to Section 6.10 and Section 6.11 only upon death, Total and Permanent Disability, normal or early retirement, termination of employment, or upon Plan Termination.

9.17 UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT ACT

Notwithstanding any provision in this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Code.



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Retirement Solutions

a Nationwide® Financial Company

December 10, 2001

RECEIVED

DEC 12 2001

LANCASTER COUNTY
BOARD

Mr. Kerry Eagan
Lancaster County
555 S. 10th City/County Building
Lincoln, NE 68508

Re: Retirement Plan Amendment and Restatement

Dear Kerry:

Enclosed are your amended and restated Basic Plan Document and Adoption Agreement. This restated document incorporates any changes to the document language, since its original adoption, required by a series of federal legislation, commonly called the "GUST" legislation. The "GUST" legislation refers to the Uruguay Round Agreements Act, Pub. L. 103-465; the Uniformed Services Employment and Reemployment Rights Act of 1994, Pub. L. 103-353; the Small Business Job Protection Act of 1996, Pub. L. 104-188; the Taxpayer Relief Act of 1997, Pub. L. 105-34 ("TRA '97"); the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105-206; and the Community Renewal Tax Relief Act of 2000, Pub. L. 106-554 ("CRA").

Federal regulatory guidance, including Internal Revenue Service (IRS) Notice 2001-42, requires plan sponsors of plans qualified under Internal Revenue Code ("Code") section 401(a) (qualified plans) to conform their plan documents to the "GUST" changes, generally no later than February 28, 2002. The attached document incorporates the changes to this document, required by the "GUST" legislation, that were not already incorporated in the original plan document. Care has been taken to restate your plan using the same selections you had made previously, including any amendments you have adopted since you last executed an Adoption Agreement. Please review the Adoption Agreement provisions carefully. Sections D2, D8 and E8 need to be completed by you. It is recommended you consult with legal counsel prior to adopting any retirement plan. Additionally, enclosed is a Sample Board of Directors Resolution and an amendment which complies with the Economic Growth and Reconciliation Act of 2001 (EGTRAA).

After review of the Adoption Agreement, if any changes are required, make and initial the changes. Please sign, date, and return the Adoption Agreement, Amendment and the Resolution in the envelope provided as soon as possible. A copy of your documents will be sent to you for your records.

Please feel free to contact me at 1-800-321-7167, extension 4-2919.

Sincerely,

Diane L. Fite
Sr. Pension Consultant